THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 14 NUMBER 146

Washington, Saturday, July 30, 1949

TITLE 3—THE PRESIDENT

PROCLAMATION 2847

TERMINATION OF THE SUSPENSION OF ADDITIONAL PROCESSING TAX ON CERTAIN COCONUT OIL

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 2470 (a) (2) of the Internal Revenue Code, as amended (26 U. S. C. (1946) 2470 (a) (2)), provides as follows:

Additional rate on coconut oil. There shall be imposed (in addition to the tax imposed by the preceding paragraph) a tax of 2 cents per pound, to be paid by the processor, upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which oil there has been no previous first domestic processing, except that the tax imposed by this sentence shall not apply when it is established, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, that such coconut oil (whether or not contained in such a combination or mixture), (A) is wholly the production of the Philippine Islands or any possession of the United States, or (B) was produced wholly from materials the growth or production of the Philippine Islands or any possession of the United States * * *;

WHEREAS section 505 (b) of the Philippine Trade Act of 1946 (60 Stat. 157, 22 U. S. C. (1946) 1355) provides as follows:

Suspension of Section 2470 (a) (2) of Internal Revenue Code. Whenever the President, after consultation with the President of the Philippines, finds that adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States, he shall so proclaim, and after the date of such proclamation the provisions of section 2470 (a) (2) of the Internal Revenue Code shall be suspended until the expiration of 30 days after he proclaims that, after consultation with the President of the Philippines, he has found that such adequate supplies are so readily available;

WHEREAS, after consultation with the President of the Philippines, the President issued a Proclamation (No. 2693) dated June 27, 1946 (60 Stat. 1349) pursuant to the said section 505 (b) of the Philippine Trade Act of 1946 that adequate supplies of neither copra nor coconut oil, the product of the Philippines, were readily available for processing in the United States and the provisions of section 2470 (a) (2) of the Internal Revenue Code were accordingly suspended;

AND WHEREAS I have consulted with the President of the Philippines concerning the supplies of copra and coconut oil, the product of the Philippines, which are available for processing in the United States, and have found that such adequate supplies are now readily available:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim that, after consultation with the President of the Philippines, I have found that adequate supplies of copra and coconut oil, the product of the Philippines, are readily available for processing in the United States. Upon the expiration of 30 days after the date of this proclamation the suspension of the provisions of section 2470 (a) (2) of the Internal Revenue Code effected by said proclamation of June 27, 1946, will be terminated so that on and after August 27, 1949, the processing tax provided for in that section will be applicable.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 27th day of July, in the year of our Lord nineteen hundred and forty-nine, and of the Independence of the United States of America the one hundred and seventy-fourth.

[SEAL]

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Secretary of State.

[F. R. Doc. 49-6253; Filed, July 28, 1949; 1:04 p. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter F—Miscellaneous Regulations

PART 382—FUR LOAN PROGRAM

Subchapter F in Chapter III of Title 6, Code of Federal Regulations (13 F. R.

(Continued on next page)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

9473), is amended to add Part 382 as follows:

AUTHORITY: §§ 382.1 to 382.10 issued under Public Law 860, 80th Cong., sec. 1 (a) (1), Public Law 38, 81st Cong.; 62 Stat. 1192, 63 Stat. 43.

DERIVATION: §§ 382.1 to 382.10 contained in FHA Instruction 446.1.

§ 382.1 *General.* Public Law 38, enacted by the 81st Congress, dissolved the Regional Agricultural Credit Corporation of Washington, D. C., transferred its assets and functions to the Secretary of Agriculture and authorized, among other things, the making of loans, until July 1, 1953, to fur farmers in accordance with the provisions of Title II of the Government Corporations Appropriation Act, 1949. The Secretary of Agriculture has delegated to the Administrator of the Farmers Home Administration the authority and responsibility for administration of the fur loan program. Sections 382.2 to 382.10 provide policies and procedures for making and servicing fur loans, including the servicing of fur loans made by the Regional Agricultural Credit Corporation.

§ 382.2 *Purpose and scope.* The primary purpose of the fur loan program is the extension of credit to bona fide fur farmers to enable them to carry on their present fur farming operations. Fur loans will not be made to applicants desiring to become established in the fur farming business or for the purpose of enabling a farmer to expand materially his present fur farming operations. Planning and supervisory assistance will be provided fur loan borrowers only when such borrowers also are indebted to the Farmers Home Administration for other types of loans in connection with which planning and supervisory assistance is furnished.

§ 382.3 *Eligibility and certifications.* Any bona fide fur farmer, including a partnership or corporation, now actually engaged in the breeding or production of fur-bearing animals in captivity is eligible to receive a loan, provided he is unable to obtain the necessary credit with which to continue his fur farming operations from commercial banks, cooperative lending agencies or other responsible sources.

(a) *Certification by applicant.* Before a fur loan may be made, the applicant must certify that he is unable to obtain the loan requested from commercial banks, cooperative lending agencies, or other responsible sources.

(b) *Certification by County Committee.* Before a fur loan may be made, the County Committee must certify that, to the best of its knowledge and belief:

(1) The applicant is unable to obtain the loan applied for from commercial banks, cooperative lending agencies, or other responsible sources, and

(2) The applicant honestly will endeavor to carry out the undertakings and

obligations required of him under the loan.

§ 382.4 *Loan purposes.* Fur loans may be made for the following purposes:

(a) Expenses required in the breeding, feeding and marketing of animals and pelts, and other expenses directly related to the fur farming operations.

(b) To pay for necessary repairs to buildings, fences and equipment required in the fur farming operations.

(c) Living expenses which cannot be met otherwise by the applicant.

(d) To pay interest on indebtedness secured by real and personal property used in connection with the fur farming operations when arrangements cannot be made with the creditor for the applicant to pay such interest out of future income.

(e) To pay current taxes on real and personal property used in connection with the fur farming operations.

(f) The refinancing of indebtedness secured by liens on property other than real estate where the property involved is essential to the applicant's fur farming operations and the present creditor will not continue to carry the indebtedness. Unsecured debts already contracted for the current year's operations also may be refinanced when satisfactory arrangements cannot be worked out with the creditor for the applicant to repay the indebtedness out of future income.

§ 382.5 *Rates and terms.* The amount of the loan will be determined by the minimum actual needs of the applicant. Fur loans will bear interest from the date of the advance at the rate of 3% per annum on the unpaid principal. Such loans will be scheduled for repayment in installments extending over the minimum period of time consistent with the applicant's anticipated ability to repay, as determined from an analysis of his operations, subject to the following:

(a) Advances for recurring expenses will be scheduled for payment when the principal income from the year's operations normally would be received except that, in justifiable cases, the repayment of a part of such advances may be deferred until the income from the second year's operations is received, provided there is adequate security to protect the Government's interests over the period of the deferment.

(b) The repayment schedule for advances made for other purposes may not extend beyond the useful life of the principal items offered as security or five years, whichever is less.

§ 382.6 *Security.* Fur loans will be secured by a first lien on all mortgageable property purchased with loan funds and on all fur-bearing animals, their increase and the pelts to be produced therefrom. The best lien obtainable will also be taken on additional personal property owned by the applicant, such as pelts on hand and in storage, feed and equipment, necessary to afford reasonable assurance of repayment. Assignments of proceeds from the sale of pelts may be taken when necessary to protect the interest of the Government and assure repayment of the loan. In addition, liens may be taken on real estate provided loans cannot be secured adequately by liens on personal property and the applicant has a substantial equity in such real estate. When fur loans are to be secured by liens on real estate, the applicant will be required to provide, at his expense, mortgagee's title insurance or an abstract of title. Such evidence of title will be examined by the representtaive of the Office of the Solicitor to determine adequacy of title and to prepare loan closing instructions.

§ 382.7 *Arrangements with other creditors.* When the other debts owed by an applicant are likely to jeopardize his fur farming operations, necessary agreements with the other creditors will be obtained before a loan is approved to provide for the retention of property essential for continued operations over a sufficient period of time to protect the interest of the Government.

§ 382.8 *Loan forms and routines*—(a) *Applications.* Applications for fur loans will be made to the County Office of the Farmers Home Administration on Form FHA–202, "Application and Certifications for Disaster Loan", but the word "Disaster" in the title of the form will be changed to "Fur".

(b) *Promissory note.* The applicant will be required to execute Form FHA–203, "Promissory Note", for the full amount of each advance.

(c) *Loan voucher.* The applicant will be required to execute Form FHA–5, "Loan Voucher", for the total amount of each advance as indicated in Form FHA–203.

(d) *Security instruments.* (1) When chattels are to be taken as security for a loan, the applicant will execute Form FHA–30, "Crop and Chattel Mortgage".

(2) When real estate is to be taken as security for a loan the applicant will execute Form FHA–76, "Real Estate Mortgage".

(3) Assignments of proceeds from the sale of farm, dairy, or other agricultural products, when required, will be executed by the applicant on Form FHA–80, "Assignment of the Proceeds from the Sale of Agricultural Products", or other form approved by the representative of the Office of the Solicitor.

(e) *Lien searches.* Applicants are required to obtain and pay the cost of lien searches. The cost of lien searches may be paid from the proceeds of loan checks when necessary.

§ 382.9 *Loan approval authority.* Subject to the policies and procedures contained in §§ 382.2 to 382.9, State Directors are authorized hereby to approve fur loans in amounts which will not cause the outstanding principal balance on such loans to exceed $12,000 for any one borrower. State Directors may redelegate to State Field Representatives authority to approve fur loans in amounts which will not cause the outstanding principal balance on such loans to exceed $5,000 for any one borrower. The redelegation of authority to State Field Representatives to approve fur loans must be in writing and issued individually.

§ 282.10 *Servicing fur loans.* Farmers Home Administration instructions (except those relating to compromise adjustment and cancellation of debts) containing the policies and procedures for the servicing of Production and Subsistence loans will be followed in servicing fur loans, including those made by the Regional Agricultural Credit Corporation. The officials of the Farmers Home Administration who are vested with authority and assigned responsibility under the Production and Subsistence loan program to accept and receipt for collections; accept, record, release and satisfy security instruments; and perform other servicing functions in connection with Production and Subsistence loans, are hereby vested with the same authority and assigned the same responsibility with respect to fur loans.

Dated: June 22, 1949.

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

Approved: July 27, 1949.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49–6232; Filed, July 29, 1949; 8:54 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 903—MILK IN ST. LOUIS, MO., MARKETING AREA

ORDER AMENDING THE ORDER, AS AMENDED, REGULATING HANDLING

Sec.

AUTHORITY: §§ 903.0 to 903.16 issued under 48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534.

§ 903.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR, 900.1 et seq.), a public hearing was held September 20–24 and September 27–29, 1948, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, milk marketing area. The recommended decision (14 F. R. 2858) was made by the Assistant Administrator of the Production and Marketing Administration on June 1, 1949. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is hereby found that a pro rata assessment on handlers at a rate not to exceed 2.5 cents per hundredweight with respect to all receipts by the handler, during each delivery period, of milk from producers (including such handler's own production) will provide the funds necessary for the maintenance and functions of the market administrator in the administration of this order and such assessment is approved.

(2) It is necessary, in the public interest, to make this order amending the order, as amended, effective not later than August 1, 1949. Any further delay in the effective date of the order amending the order, as amended, will seriously threaten the orderly marketing of milk in the St. Louis, Missouri, marketing area. The need for the said order is also disclosed by the aforesaid decision of the Secretary of Agriculture which was executed on July 22, 1949. The provisions of the said order are well known to handlers—the public hearing having been held on September 20–24 and September 27–29, 1948, the recommended decision having been published in the FEDERAL REGISTER (14 F. R. 2858) June 1, 1949, and the final decision (14 F. R. 4672) having been executed by the Secretary on July 22, 1949. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective August 1, 1949, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order amending the order, as amended) of more than 50 percent of the volume of milk covered by this order amending the order, as amended, which is marketed within the St. Louis, Missouri, marketing area refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the St. Louis, Missouri, marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (April 1949), were engaged in the production of milk for sale in the said marketing area.

(4) The provision of this order amending the order, as amended, providing for the payment to all producers delivering milk to the same handler of uniform prices for all milk delivered by them is approved or favored by at least three-fourths of the producers who, during the determined representative period (April 1949), were engaged in the production of milk for sale in the St. Louis, Missouri, marketing area.

Order Relative to Handling

It is hereby ordered, that on and after the effective date hereof, the handling of milk in the St. Louis, Missouri, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

§ 903.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties, pursuant to the act, of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price-reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "St. Louis, Missouri, Marketing Area," hereinafter called the "marketing area," means the territory within the corporate limits of the city of St. Louis, Kirkwood, and Valley Park, Missouri; the territory within St. Ferdinand, Normandy, Clayton, Jefferson, Lemay, and Gravois Townships in St. Louis County, Missouri; and the territory within Scott Field Military Reservation, and East St. Louis, Centreville, Canteen, and Stites Townships in St. Clair County, Illinois.

(f) "Delivery period" means a calendar month, or the portion thereof during which this order or any amendment thereto is in effect.

(g) "Producer" means any person, irrespective of whether such person is also a handler, who produces milk, under a dairy farm permit or rating issued by the appropriate health authority in the marketing area for the production of Grade A or Grade B raw milk, which is received at a city plant or at a country plant. As used herein, such "dairy farm permit or rating" means one issued by any of the health authorities duly authorized to administer regulations governing the quality of milk disposed of in the marketing area.

(h) "City plant" means a plant where fluid milk is received from producers or from a country plant, and from which packaged milk, skim milk, or cream is disposed of as Class I milk in the marketing area to wholesale or retail outlets, including plant stores.

(i) "Country plant" means a plant at which milk is received from producers, and which is approved by the appropriate health authority in the marketing area to furnish milk to a city plant.

(j) "Handler" means a person who operates a city plant or a country plant.

(k) "Producer-handler" means any person who is a producer and who processes milk from his own farm production distributing all or a portion of such milk within the marketing area as Class I milk but who receives no milk from other producers.

(l) "Nonhandler" means any person who is not a handler but who distributes fluid milk on retail or wholesale routes, or engages in the manufacture of milk products.

(m) "Market administrator" means the person designated pursuant to § 903.2 as the agency for the administration hereof.

(n) "Other source milk" means all skim milk and butterfat transferred in any form by a producer-handler to a handler, and all skim milk and butterfat received in any form from a source other

than a producer, a city or a country plant, except any Class II nonfluid milk product which is received and disposed of in the same form.

§ 903.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 903.9: (i) The cost of his bond and of the bonds of his employees, (ii) his own compensation, and (iii) all other expenses, except those incurred under § 903.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein and submit such books and records to examination by the Secretary as requested;

(6) Furnish such information and such verified reports as the Secretary may request;

(7) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation hereof as does not reveal confidential information;

(8) Publicly disclose to handlers and to producers, unless otherwise directed by the Secretary, the name of any handler who, within 15 days after the date upon which he is required to perform such acts, has not made (i) reports pursuant to § 903.3 (a), or (ii) payments pursuant to § 903.8;

(9) Verify all reports and payment of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(10) Publicly announce the prices and butterfat differentials determined for each delivery period as follows: (i) On or before the 6th day after the end of such delivery period, the prices and butterfat differential for each class of milk computed pursuant to § 903.5; and (ii) on or before the 10th day after the end of such delivery period, the uniform price computed pursuant to § 903.7 (b) for each handler with the butterfat differential applicable pursuant to § 903.8, in the payment for milk to producers and any adjustments made pursuant to § 903.7 (b) (3).

§ 903.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in all receipts at each of his city plants and country plants within such delivery period of (i) milk from producers (including his own farm production), (ii) milk, skim milk, cream, and milk products from other handlers, and (iii) other source milk;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to subparagraph (1) of this paragraph, including a separate statement of the disposition of Class I milk outside the marketing area;

(3) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(4) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer.

(b) *Reports of payments to producers.* On or before the 20th day after the end of each delivery period, each handler shall report to the market administrator his producer pay roll for such delivery period which shall show for each producer (1) the total pounds of milk received from such producer with the average butterfat test thereof, (2) the net amount of the payment made to such producer together with the price, deductions, and charges involved, and (3) the amount and nature of any payments made pursuant to § 903.8 (d).

(c) *Reports of transportation rates.* On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of transportation rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant or plants. Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days.

(d) *Reports of producer-handlers.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

(e) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available for such examination of the market administrator or his representative all records, facilities, operations, and equipment as the market administrator deems necessary to (1) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat and other content all milk and milk products handled; and (3) verify payments to producers.

(f) *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided,* That if, within such 3-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 903.4 *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat received by a handler at his country plant(s) and city plant(s) in (1) milk from producers (including milk of his own production), (2) milk, skim milk, cream, and other milk products from other handlers, and (3) other source milk, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c), (d), (e), and (f) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form as milk, skim milk, buttermilk, milk drinks (whether plain or flavored), cream (fresh, frozen, and sour), and any milk product, except cottage cheese, ice cream, and ice cream mix, which is required by the appropriate health authority in the marketing area to be made from Grade A or Grade B raw milk, and (ii) not specifically accounted for as Class II milk.

(2) Class II milk shall be all skim milk and butterfat accounted for (i) as having been used or disposed of in any product other than those specified in Class I

milk, (ii) as actual plant shrinkage of skim milk and butterfat in milk received from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (iii) as actual plant shrinkage of skim milk and butterfat in other source milk: *Provided,* That if milk from producers and other source milk are both received, during the same delivery period, in a country plant or a city plant the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and to other source milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class.

(2) Any skim milk or butterfat classified in one class shall be reclassified if used or reused by such handler or by another handler (except a producer-handler) in another class.

(d) *Transfers.* (1) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or diversion, from a city plant of a handler to any plant of another handler, except a producer-handler, shall be classified as Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided,* That skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (f) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned to Class I milk.

(2) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or transfer of title, from a country plant of a handler to a country plant or a city plant of another handler, except a producer-handler, shall be classified as Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided,* That the amount of skim milk or butterfat classified as Class I milk pursuant to this subparagraph shall be limited to the amount computed pursuant to paragraph (f) (1) (vii) of this section.

(3) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or diversion, from a country plant or a city plant of a handler to a city plant of a producer-handler shall be classified as Class I milk.

(4) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, by transfer or diversion, from a country plant or a city plant of a handler to any plant other than a city plant or a country plant of a handler or to a nonhandler shall be classified as Class I milk unless (i) the transferee-plant is located within 110 air-line miles from the City Hall in St. Louis, Missouri, or in the counties of Phelps, Dent, Pulaski, Texas, Howell, Laclede, Wright, Dallas, Webster, Polk, Greene, Christian, or Lawrence in the State of Missouri, and the handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the handler and the operator of the transferee-plant on or before the 7th day after the end of the delivery period within which such transaction occurred, (ii) the operator of the transferee-plant maintains books and records, showing the utilization of all skim milk and butterfat received at such plant, which are made available if requested by the market administrator for the purpose of verification, and (iii) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement; in which case such skim milk and butterfat shall be classified according to such mutual agreement: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified as Class I milk.

(5) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream, from a plant of a handler to retail establishments which dispose of milk, skim milk, or cream for both fluid and other uses shall be classified as Class I milk: *Provided,* That skim milk and butterfat contained in milk, skim milk, or cream so disposed of in bulk to retail establishments which, under the applicable health regulations, are permitted to receive milk, skim milk, or cream other than of Grade A quality for nonfluid purposes shall be classified as Class II milk if used or disposed of by such establishment in other than fluid form, provided that the market administrator is allowed to verify such use or disposition.

(e) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds of skim milk in such class allocated to producer milk received by such handler during such delivery period:

(i) Subtract from the total pounds of skim milk in Class II milk the plant shrinkage of skim milk in milk received from producers, computed pursuant to paragraph (b) (2) (ii) of this section;

(ii) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk in ungraded milk received as other source milk and disposed of as Class I milk outside the marketing area;

(iii) Subtract from the pounds of skim milk remaining in Class II milk an amount of skim milk so utilized, pursuant to paragraph (b) (2) (i) of this section, but not to exceed 5 percent of the total receipts of skim milk in milk received from producers: *Provided,* That a smaller percentage shall be applied under this subdivision if designated by the handler on his report made pursuant to § 903.3 (a) (1);

(iv) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk (exclusive of the pounds of skim milk subtracted pursuant to subdivision (ii) of this subparagraph): *Provided,* That if the pounds of skim milk to be subtracted from Class II milk is greater than the pounds of skim milk remaining in such class, the balance shall be subtracted from the pounds of skim milk remaining in Class I milk;

(v) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subdivision (iii) of this subparagraph;

(vi) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in milk, skim milk, cream, and other milk products received from a city plant of another handler and assigned to such class: *Provided,* That if the pounds of skim milk to be subtracted from Class II milk is greater than the pounds of skim milk remaining in such class, the balance shall be subtracted from the pounds of skim milk remaining in Class I milk;

(vii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in milk, skim milk, cream, and other milk products received from a country plant of another handler and assigned to such class: *Provided,* That the pounds of skim milk to be subtracted from Class I milk shall not exceed its pro rata share of the volumes of skim milk allocated to Class I milk and Class II milk after the subtraction of receipts of other source milk and receipts from city plants of another handler;

(viii) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subdivision (i) of this subparagraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes, in series beginning with the lowest-priced class.

(2) Determine the pounds of butterfat in each class to be allocated to milk received from producers in the same manner prescribed for skim milk in subparagraph (1) of this paragraph.

(g) *Determination of producer milk in each class.* Add the pounds of skim milk and the pounds of butterfat allocated to milk received from producers in each class, respectively, as computed

pursuant to subparagraphs (1) and (2) of paragraph (f) of this section, and determine the percentage of butterfat in each class.

§ 903.5 *Minimum prices*—(a) *Basic formula price.* The basic formula price per hundredweight to be used in determining the class prices, set forth in paragraph (b) of this section, shall be the higher of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to subparagraphs (1) or (2) of this paragraph.

(1) Determine the arithmetic average of the basic, or field, prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Concern and Location

Carnation Co., Ava, Mo.
Carnation Co., Seymour, Mo.
Pet Milk Co., Greenville, Ill.
Litchfield Creamery Co., Litchfield, Ill.
Indiana Condensed Milk Co., Bunker Hill, Ill.
Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., Ne Glarus, Wis.
Pet Milk Co., Belleville, Wis.
Borden Co., New London, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed as follows: Multiply by 3.5 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 20 percent thereof, and add or subtract, as the case may be, to such sum 3½ cents for each full ½ cent that the average of the carlot prices per pound of nonfat dry milk solids for human consumption, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period (including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for the price determination of such nonfat dry milk solids for the previous delivery period), is above 5½ cents: *Provided,* That if such f. o. b. manufacturing plant prices of nonfat dry milk solids are not reported there shall be used for the purpose of such computation the average of the carlot prices of nonfat dry milk solids for human consumption, delivered at Chicago, as reported by the Department of Agriculture during the delivery period; and in the latter event 7½ cents shall be used in lieu of the "5½ cents."

(b) *Class prices.* Subject to the provisions of paragraphs (c) and (d) of this section, each handler shall pay producers, at the time and in the manner set forth in § 903.8, not less than the following prices per hundredweight of milk:

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: $1.35 for the delivery periods of July through December; $1.10 for the delivery periods of January through March; and 90 cents for the delivery periods of April through June: *Provided,* That if during the 12 months prior to the month immediately preceding each of the following delivery period groups, the total volume of milk received from producers by all handlers was more or less than 115 percent of the total Class I milk disposed of by all handlers during such 12-month period the following adjustments shall be made to the price for Class I milk for the respective group of delivery periods:

Delivery period group	For each percentage point that receipts from producers as a percent of Class I milk is—	
	Below 115 percent (add)	Above 115 percent (subtract)
	Cents	*Cents*
January through March	1	2
April through June	0	2
July through December	2	2

(2) *Class II milk.* The price for Class II milk shall be the basic formula price.

(c) *Location differentials to handlers.* With respect to skim milk and butterfat contained in milk received from producers at a handler's city plant located outside the marketing area which is classified as Class I milk, and with respect to skim milk and butterfat contained in milk received from producers at a handler's country plant which is moved from such plant to a city plant and allocated as Class I milk pursuant to § 903.4 (f) (vii), or which is moved from such plant to a nonhandler's plant and classified as Class I milk pursuant to § 903.4 (d) (4), such a handler shall be allowed the amount per hundredweight set forth in the schedule below for the air-line distance from the City Hall in St. Louis within which is located the plant where the milk is first received:

Mileage zone	*Amount per hundredweight (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
Within each 10-mile zone thereafter—an additional 1 cent.	

(d) *Butterfat differential to handlers.* If the weighted average butterfat test of producer milk which is classified, respectively, in Class I milk or Class II milk for a handler, pursuant to § 903.4 (g), is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each 1/10 of 1 percent that such weighted average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.35 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(2) *Class II milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 903.6 *Application of provisions*—(a) *Producer-handlers.* Sections 903.4, 903.5 903.7, 903.8, 903.9, and 903.10 shall not apply to a producer-handler.

§ 903.7 *Determination of uniform prices to producers*—(a) *Computation of the value of milk for each handler.* For each delivery period the market administrator shall compute the value of milk received from producers by each handler, by multiplying the quantity in each class, computed pursuant to § 903.4 (g), by the price applicable to such class, subject to the differentials set forth in paragraphs (c) and (d) of § 903.5, and adding together the resulting values of each class: *Provided,* That if a handler, after subtracting receipts of other source milk and receipts from other handlers, has disposed of more skim milk or butterfat than, on the basis of his report for the delivery period pursuant to § 903.3 (a), has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to subparagraphs (1) (viii) and (2) of § 903.4 (f) by the applicable class price adjusted by the butterfat differential to handlers.

(b) *Computation of the uniform price for each handler.* For each delivery period, the market administrator shall compute for each handler the uniform price per hundredweight of milk, of 3.5 percent butterfat content, f. o. b. the marketing area, received by such handler from producers as follows:

(1) Add to the value computed pursuant to paragraph (a) of this section the amount of any location adjustment to be made pursuant to § 903.8 (c);

(2) Subtract, if the average butterfat content of milk received from producers by such handler is more than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential to producers, and multiply the result by the total hundredweight of such milk;

(3) If, in the verification of the reports of such handler of his receipts and utilization of skim milk and butterfat, respectively, for any previous delivery period, the market administrator discovers errors in such reports which would have resulted in a different uniform price per hundredweight, including reclassification of skim milk and butterfat pursuant to § 903.4 (c) (2), there shall be added or subtracted, as the case may be, an amount of money necessary to correct such errors; and

(4) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, computed to the nearest full cent, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content, f. o. b. St. Louis, Missouri, marketing area.

§ 903.8 *Payment for milk*—(a) *Time and method of payment.* On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for the total value of milk received from such producer during such delivery period, at not less than the uniform price per hundredweight computed for such handler pursuant to § 903.7 (b), subject to the location and butterfat differentials computed pursuant to paragraphs (b) and (c) of this section.

(b) *Butterfat differential to producers.* If any handler has received from any producer, during the delivery period, milk having an average butterfat content other than 3.5 percent, such handler, in making payments pursuant to paragraph (a) of this section, shall add to the uniform price for each $\frac{1}{10}$ of 1 percent that the average butterfat content of such milk is above 3.5 percent not less than, or shall deduct from the uniform price for each $\frac{1}{10}$ of 1 percent that the average butterfat content of such milk is below 3.5 percent not more than, the following amount: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the resulting sum by 10.

(c) *Location differentials to producers.* In making payments pursuant to paragraph (a) of this section, each handler shall deduct with respect to milk received from producers at a plant located outside the market area, the amount per hundredweight of milk set forth in the schedule below for the airline distance from the City Hall in St. Louis within which is located the plant where the milk is first received:

Mileage zone	*Amount per hundredweight of milk (cents)*
Not more than 10 miles	6
More than 10 but not more than 20 miles	12
More than 20 but not more than 30 miles	14
More than 30 but not more than 40 miles	16
Within each 10-mile zone thereafter—an additional 1 cent.	

(d) *Errors in payment.* Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall pay such balance to such producer not later than the time of making payment to producers next following such disclosure.

(e) *Additional payments.* Any handler may make payments to producers in addition to the payments made pursuant to paragraph (a) of this section: *Provided,* That such additional payments should be made on a uniform basis to all producers from whom milk meeting special quality, volume production, or evenness of production standards has been received.

§ 903.9 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 2½ cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during such delivery period, of milk from producers (including such handler's own production). Each handler, which is a cooperative association of producers, shall pay such pro rata share of expense on only that milk received from producers at a plant of such association.

§ 903.10 *Marketing services*—(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 903.8 (a), shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the delivery period and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler, in lieu of the deductions specified in paragraph (a) of this section, shall make the deductions from the payments made pursuant to § 903.8 (a) which are authorized by such producers, and, on or before the 15th day after the end of each delivery period, pay over such deductions to the cooperative associations rendering such services of which such producers are members.

§ 903.11 *Unfair methods of competition.* Each handler shall refrain from acts which constitute unfair methods of competition by way of indulging in any practices with respect to the transportation of milk for, and the supplying of goods and services to, producers from whom milk is received, which tend to defeat the purpose and intent of the terms and provisions hereof.

§ 903.12 *Market advisory committee*—(a) *Representation, selection, approval, and removal.* Subsequent to the effective date hereof, representatives of producers, handlers, and consumers, respectively, may certify to the Secretary the selection of three individuals by each group for membership on the market advisory committee. Upon approval of the Secretary, the nine individuals so selected shall constitute the market advisory committee. Each member of the market advisory committee shall serve for a term of one year unless sooner removed by the Secretary. After the market advisory committee has been constituted, vacancies in the membership thereof shall be filled in the same manner as the original selections were made.

(b) *Powers.* The market advisory committee shall have the power to recommend to the Secretary amendments hereto originating within itself or submitted to it by interested parties, after a study of the facts available to the market advisory committee.

§ 903.13 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension and termination.* Any or all provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty.* (1) If, upon the suspension or termination pursuant to paragraph (b) of this section, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate shall (i) continue in such capacity until discharged, (ii) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (iii) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination pursuant to paragraph (b) of this section, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidat-

ing and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 903.14 *Separability of provisions.* If any provision hereof, or its application to any person or circumstance is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 903.15 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 903.16 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

Issued at Washington, D. C., this 27th day of July 1949, to be effective on and after the 1st day of August 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6241; Filed, July 29, 1949; 8:50 a. m.]

[Orange Reg. 286]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 966.432 *Orange Regulation 286*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., July 31, 1949, and ending at 12:01 a. m., P. s. t., August 7, 1949, is hereby fixed as follows:

(i) *Valencia oranges.* (*a*) Prorate District No. 1: Unlimited movement;

(*b*) Prorate District No. 2: 1,300 carloads;

(*c*) Prorate District No. 3: No movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1: No movement;

(*b*) Prorate District No. 2: No movement;

(*c*) Prorate District No. 3: No movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 (11 F. R. 10253) of the rules and regulations contained in this part.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 29th day of July 1949.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

[12:01 a. m. July 31, 1949, to 12:01 a. m. August 7, 1949]

VALENCIA ORANGES

Prorate District No. 2

Handler	*Prorate base (percent)*
Total	100.0000
A. F. G. Alta Loma	.1079
A. F. G. Corona	.0000
A. F. G. Fullerton	.9063
A. F. G. Orange	.4198
A. F. G. Riverside	.1143
A. F. G. San Juan Capistrano	.5489
A. F. G. Santa Paula	.4959
Hazeltine Packing Company	.4002
Placentia Pioneer Valencia Growers Association	.6698
Signal Fruit Association	.1000
Azusa Citrus Association	.5013
Damerel-Allison Co	.8118
Glendora Mutual Orange Association	.3935
Puente Mutual Orange Association	.1674
Valencia Heights Orchard Association	.4982
Covina Citrus Association	1.3424
Covina Orange Growers Association	.6599
Glendora Citrus Association	.4005
Glendora Heights Orange & Lemon Growers Association	.0529
Gold Buckle Association	.4900
La Verne Orange Association	.6461
Anaheim Citrus Fruit Association	1.4686
Anaheim Valencia Orange Association	1.5340
Eadington Fruit Co., Inc	8.2188
Fullerton Mutual Orange Association	1.3937
La Habra Citrus Association	.7507
Orange County Valencia Association	.4178
Orangethorep Citrus Association	1.0633

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Placentia Cooperative Orange Association	1.0979
Yorba Linda Citrus Association, The	.7440
Escondido Orange Association	2.3449
Alta Loma Heights Citrus Association	.0667
Citrus Fruit Association	.1934
Cucamonga Citrus Association	.0912
Rialto Heights Orange Growers	.0556
Upland Citrus Association	.5094
Upland Heights Orange Association	.1625
Consolidated Orange Growers	2.0686
Frances Citrus Association	1.1036
Garden Grove Citrus Association	1.6613
Goldenwest Citrus Association	1.3142
Irvine Valencia Growers	2.6020
Olive Heights Citrus Association	1.9807
Santa Ana-Tustin Mutual Citrus Association	.9368
Santiago Orange Growers Association	4.2026
Tustin Hills Citrus Association	1.7135
Villa Park Orchards Association, The	2.1005
Bradford Bros., Inc	.7072
Placentia Mutual Orange Association	2.0122
Placentia Orange Growers Association	2.4080
Yorba Orange Growers Association	.5889
Call Ranch	.0609
Corona Citrus Association	.6785
Jameson Co	.0514
Orange Heights Orange Association	.5203
Crafton Orange Growers Association	.2844
East Highlands Citrus Association	.0583
Fontana Citrus Association	.1254
Highland Fruit Growers Association	.0332
Redlands Heights Groves	.2470
Redlands Orangedale Association	.2549
Break & Sons, Allen	.0351
Bryn Mawr Fruit Growers Association	.1666
Mission Citrus Association	.1689
Redlands Cooperative Fruit Association	.3068
Redlands Orange Growers Association	.2085
Redlands Select Groves	.2225
Rialto Citrus Association	.1984
Rialto Orange Co	.1675
Southern Citrus Association	.1595
United Citrus Growers	.1316
Zilen Citrus Co	.0729
Andrews Bros. of California	.0094
Arlington Heights Citrus Co	.1148
Brown Estate, L. V. W	.1212
Gavilan Citrus Association	.1354
Highgrove Fruit Association	.0807
Krinard Packing Co	.2365
McDermont Fruit Co	.1897
Monte Vista Citrus Association	.2064
National Orange Co	.0501
Riverside Heights Orange Growers Association	.0534
Sierra Vista Packing Association	.0477
Victoria Avenue Citrus Association	.1729
Claremont Citrus Association	.1430
College Heights Orange & Lemon Association	.3257
Indian Hill Citrus Association	.1996
Pomona Fruit Growers Exchange	.3622
Walnut Fruit Growers Association	.4116
West Ontario Citrus Association	.4286
El Cajon Valley Citrus Association	.0922
San Dimas Orange Growers Association	.3451

PRORATE BASE SCHEDULE—Continued

VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Canoga Citrus Association	0.8493
Covina Valley Orange Co	.0541
North Whittier Heights Citrus Association	.8256
San Fernando Fruit Growers Association	.6314
San Fernando Heights Orange Association	.9294
Sierra Madre-Lamanda Citrus Association	.4009
Camarillo Citrus Association	1.6700
Fillmore Citrus Association	4.2641
Mupu Citrus Association	2.1935
Ojai Orange Association	.9639
Piru Citrus Association	2.4795
Rancho Sespe	.8676
Santa Paula Orange Association	1.2496
Tapo Citrus Association	1.0128
Ventura County Citrus Association	.2496
Limoneira Co	.5575
East Whittier Citrus Association	.3620
El Ranchito Citrus Association	1.4502
Whittier Citrus Association	.6019
Whittier Select Citrus Association	.3119
Anaheim Cooperative Orange Association	1.4132
Bryn Mawr Mutual Orange Association	.0767
Chula Vista Mutual Lemon Association	.0000
Escondido Cooperative Citrus Association	.3341
Euclid Avenue Orange Association	.5284
Foothill Citrus Union, Inc	.0330
Fullerton Cooperative Orange Association	.3131
Garden Grove Orange Cooperative, Inc	.9022
Golden Orange Groves, Inc	.1851
Highland Mutual Groves, Inc	.0222
Index Mutual Association	.1958
La Verne Cooperative Citrus Association	1.6025
Mentone Heights Association	.0296
Olive Hillside Groves, Inc	.4866
Orange Cooperative Citrus Association	1.2078
Redlands Foothill Groves	.4908
Redlands Mutual Orange Association	.1448
Riverside Citrus Association	.0385
Ventura County Orange and Lemon Association	1.0086
Whittier Mutual Orange and Lemon Association	.1268
Associated Growers Cooperative	.1529
Babijuice Corporation of California	.5246
Banks, L. M	.6108
Borden Fruit Co	.9106
California Associated Growers	.4580
Cherokee Citrus Co., Inc	.1538
Chess Co., Meyer W	.2971
Evans Bros. Packing Co	.2583
Furr Co., N. C	.0383
Gold Banner Association	.2147
Granada Hills Packing Co	.0402
Granada Packing House	2.0121
Hill Packing House, Fred A	.0952
Knapp Packing Co., John C	.2278
Orange Belt Fruit Distributors	1.9749
Panno Fruit Co., Carlo	.1282
Paramount Citrus Association	.4815
Placentia Orchard Co	.5332
San Antonio Orchard Co	.2864
Snyder & Sons Co., W. A	.7855
Stephens, T. F	.1375
Wall, E. T	.1047
Western Fruit Growers, Inc	.3906

[F. R. Doc. 49-6288; Filed, July 29, 1949; 11:18 a. m.]

PART 991—MILK IN THE ROCKFORD-FREEPORT, ILLINOIS, MARKETING AREA

ORDER REGULATING HANDLING

Sec.

AUTHORITY: §§ 991.0 to 991.92 issued under 48 Stat. 31, 670, 675; 49 Stat 750; 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102 Reorg. Plan 1 of 1947, 12 F. R. 4534; 61 Stat. 951.

§ 991.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public

Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, 900.1 et seq.), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of milk in the Rockford-Freeport, Illinois, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions of said order will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by:

(i) Each handler, as his prorata share of such expenses, 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, with respect to all milk received within the delivery period from producers (including such handler's own production) and from sources other than producers or other handlers, and

(ii) Each cooperative association, as its prorata share of such expenses, 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, with respect to milk of producers diverted by it pursuant to § 991.11 (c).

(b) *Additional findings.* (1) It is hereby found and proclaimed that in connection with the execution of a tentative marketing agreement and the issuance of this order regulating the handling of milk in the said marketing area that the purchasing power of such milk during the pre-war period of August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1924–July 1929 can be satisfactorily determined from the available statistics of the Department of Agriculture, and the period August 1924–July 1929 is the base period to be used in connection with said marketing agreement and this order in determining the purchasing power of such milk.

(2) It is necessary in the public interest, to make the several provisions of this order effective as hereinafter set forth. Any further delay in the effective date of the order will seriously threaten the orderly marketing of milk in the Rockford-Freeport, Illinois, marketing area. The provisions of the order are well known to handlers—the public hearing having been held on June 2–9, 1948, the recommended decision having been published in the FEDERAL REGISTER (14 F. R. 1356) on March 25, 1949, and the final decision (14 F. R. 3999) having been executed by the Secretary of Agriculture on July 8, 1949. Handlers have requested in view of the fact that this order will constitute the original imposition of a regulatory program of this nature for the market, that the provisions of such order other than those relating to prices and payments to producers be put into effect prior to the effective date of the provisions relating to prices and payments to producers, in order that they may make necessary adjustments in their accounting and other operative procedures to conform with all provisions of the order. Therefore, reasonable times are permitted, under the circumstances, for preparation for the effective dates specified below. It is hereby found and determined, in view of the aforementioned facts and circumstances, that good reason exists for making §§ 991.1 to 991.46 inclusive, 991.60, 991.61, 991.82, 991.84, 991.90, 991.91, and 991.92 of this order effective August 1, 1949, and §§ 991.50 to 991.54 inclusive, 991.70 to 991.72 inclusive, 991.80, 991.81 and 991.83 effective on September 1, 1949; and that it would be contrary to the public interest to delay such effective dates to dates later than those specified.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order) of more than 50 percent of the volume of milk covered by the aforesaid order which is marketed within the Rockford–Freeport, Illinois, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area, and

(3) The issuance of this order is approved or favored by at least three-fourths of the producers, who, during March 1949 (said month having been determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Rockford-Freeport marketing area shall be in conformity to and in compliance with the terms and conditions of the following order.

DEFINITIONS

§ 991.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 991.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 991.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in §§ 991.50, 991.54 and 991.81.

§ 991.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 991.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determined, after application by the association;

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 991.6 *Delivery period.* "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

§ 991.7 *Rockford-Freeport marketing area.* "Rockford-Freeport marketing area" hereinafter called the "marketing area," means the territory lying within the corporate limits of the Cities of Rockford and Freeport, together with the territory lying within the Townships of Burritt, Cherry Valley, Harlem, Owen, Rockford and Winnebago, in Winnebago County, and Florence, Harlem, Lancaster and Silver Creek, in Stephenson County, all in the State of Illinois.

§ 991.8 *Route.* "Route" means a delivery (including at a plant store) of milk, skim milk, buttermilk, flavored milk, or flavored milk drink in fluid form to a wholesale or retail stop(s) other than to a milk processing or distributing plant(s).

§ 991.9 *Approved plant.* "Approved plant" means a milk processing or distributing plant approved by the appropriate authorities for distribution of Grade "A" milk under the milk ordinance of any municipality in the marketing area or under the Grade "A" milk and Grade "A" milk products law of the State of Illinois, and from which a route is operated wholly or partially within the marketing area. The term "approved plant" does not include any portions of the plant or facilities used for

processing milk or any milk product required by the appropriate health authorities to be kept physically separate from that portion of the plant facilities used for receiving, processing, or packaging milk or milk products to be labeled Grade "A".

§ 991.10 *Unapproved plant.* "Unapproved plant" means any milk processing or distributing plant which is not an approved plant.

§ 991.11 *Handler.* "Handler" means:

(a) The operator of an approved plant in his capacity as such; or

(b) The operator of an unapproved plant from which a route is operated wholly or partially within the marketing area;

(c) A cooperative association with respect to milk of producers caused to be diverted for its account from an approved plant to an unapproved plant from which no route is operated within the marketing area.

§ 991.12 *Producer.* "Producer" means either of the following:

(a) "Grade A producer" means any person, except a producer-handler, who under inspection of the appropriate health authorities of any of the municipalities of the marketing area, or of the State of Illinois, produces milk approved by such authority for distribution as Grade "A" milk within the marketing area, which milk is received at an approved plant, or is diverted by a cooperative association for its account from an approved plant to an unapproved plant; or

(b) "Non-Grade A producer" means any person, except a producer-handler, who produces milk which is received at an unapproved plant from which a route is operated in the marketing area.

§ 991.13 *Producer milk.* "Producer milk" means either of the following: (a) "Grade A producer milk" means milk of one or more producers produced and received or diverted under the conditions set forth in § 991.12 (a).

(b) "Non-Grade A producer milk" means milk of one or more producers produced and received under the conditions set forth in § 991.12 (b).

§ 991.14 *Other source milk.* "Other source milk" means skim milk or butterfat received at an approved plant, or at an unapproved plant from which a route is operated wholly or partially within the marketing area, except that contained in (a) producer milk, (b) in receipts from other handlers, (c) in receipts from handlers under any marketing agreement and order issued pursuant to the act for any other fluid milk marketing area of items listed herein as Class I milk or Class II milk in packaged or bottled form ready for delivery to consumers, which are disposed of in the original package in which received; and (d) in any non-fluid milk product received from a non-handler and disposed of in the form in which received.

§ 991.15 *Producer-handler.* "Producer-handler" means any person who produces milk and operates a route in the marketing area, but who receives no milk from producers.

MARKET ADMINISTRATOR

§ 991.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 991.21 *Powers.* The market administrator shall have the following powers with respect to this order:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 991.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 991.82:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 991.83, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the day upon which he is required to perform such act, has not (1) made reports pursuant to §§ 991.30, 991.31 or 991.32, (2) maintained adequate records and facilities pursuant to § 991.33, or (3) made the payments required under §§ 991.80, 991.81, 991.82 or 991.83;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) On or before the 10th day after the end of each delivery period report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association, either directly or from producers who have authorized such cooperative association to receive payments for them, to each handler to whom the cooperative association sells milk. For the purpose of this report the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any handler or person upon whose utilization and classification of skim milk or butterfat for such handler depends;

(j) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(1) On or before the 5th day after the end of such delivery period, the minimum class prices pursuant to §§ 991.51, 991.52 and 991.53, and the butterfat differentials for each class pursuant to § 991.54, and

(2) On or before the 11th day after the end of such delivery period, the uniform prices computed, pursuant to § 991.71 and the butterfat differential computed pursuant to § 991.81 and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 991.30 *Delivery period reports of receipts and utilization.* On or before the 8th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator;

(a) The quantities of butterfat and quantities of skim milk contained in (or used in the production of) all receipts within such delivery period of (1) producer milk, (2) skim milk and butterfat in any form from any other handler, and (3) other source milk; and the sources thereof;

(b) The product pounds of Class I and Class II milk received in packaged or bottled form ready for delivery to consumers from handlers under any marketing agreement and order issued pursuant to the act for any other fluid milk marketing area, and disposed of in the form in which received;

(c) The product pounds of non-fluid milk products received from any nonhandler and disposed of in the same form;

(d) The utilization of all receipts required to be reported under paragraphs (a) and (b) and (c) of this section; and

(e) Such other information with respect to all such receipts and utilization as the market administrator may prescribe.

§ 991.31 *Producer payroll reports.* On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator such

handler's producer payroll for the preceding delivery period, which shall show (a) the total pounds of milk received from each producer and cooperative association and the total pounds of butterfat contained in such milk, (b) the amount of payment to each producer and cooperative association and (c) the nature and amount of any deductions and charges involved in the payments referred to in paragraph (b) of this section.

§ 991.32 *Reports by producer handlers.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 991.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

(a) The receipts and utilization, in whatever form, of all skim milk and butterfat received, including milk products received and disposed of in the same form;

(b) The weights, samples and tests for butterfat and for other content of all skim milk and butterfat handled;

(c) Payments to producers and cooperative association; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and each milk product on hand at the beginning and at the end of each delivery period.

CLASSIFICATION

§ 991.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat, in any form, received within the delivery period by a handler, in producer milk, in other source milk, and from another handler shall be classified by the market administrator pursuant to the provisions of §§ 991.41 to 991.46.

§ 991.41 *Classes of utilization.* Subject to the conditions set forth in § 991.43 and § 991.44 the skim milk and butterfat described in § 991.40 shall be classified separately by the market administrator on the basis of the following classes:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat;

(1) Disposed of in fluid form as milk, skim milk, buttermilk, flavored milk or flavored milk drink (except as provided in paragraph (c) (4) of this section; or

(2) Not specifically accounted for as any item included under subparagraph (1) of this paragraph or as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as

(1) Cream or as any mixture containing cream and milk or skim milk (not including ice cream mix) containing not less than 6 percent of butterfat, or

(2) Eggnog.

(c) Class III milk shall be all skim milk and butterfat:

(1) Used to produce a milk product other than any of those specified in paragraph (a) (1) or in paragraph (b) of this section;

(2) In actual plant shrinkage of producer milk computed pursuant to § 991.42, but not in excess of 2 percent thereof;

(3) In inventory variation of milk, skim milk, cream or of any Class I or Class II product;

(4) In skim milk, flavored milk, flavored milk drink or buttermilk dumped or disposed of for livestock feed;

(5) In actual plant shrinkage of other source milk computed pursuant to § 991.42.

§ 991.42 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section between producer milk and other source milk after deducting receipts from other handlers.

§ 991.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat (except that transferred to a producer-handler) classified in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 991.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred in the form of milk or skim milk, and as Class II milk if so disposed of in the form of cream, to the regulated plant of another handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the delivery period within which such transaction occurred: *Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 991.46 (a) (2), and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next higher priced available utilization: *And provided further,* That in no event shall skim milk or butterfat so transferred or diverted be so classified that other source milk is assigned to any higher class in the plant of the transferring handler than the lowest class to which producer milk (other than allowable shrinkage) is assigned in the plant of the transferee-handler, after application of the allocation provisions of § 991.46.

(b) As Class I milk if transferred to a producer-handler in the form of milk or skim milk and as Class II milk if so disposed of in the form of cream;

(c) As class I milk if transferred in bulk in the form of milk or skim milk or diverted, and as Class II milk if transferred in the form of cream, to an unapproved plant from which no route is operated in the marketing area unless, except as provided in paragraph (d) of this section;

(1) The handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the buyer and seller on or before the 8th day after the end of the delivery period within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification;

(3) Such buyer's plant had actually used not less than an equivalent amount of skim milk and butterfat in the use indicated in such statement: *Provided,* That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of skim milk and butterfat in such indicated use, the remaining pounds shall be classified on the basis of the next lower-priced available use in accordance with the classes set forth in § 941.41 and

(d) As Class I milk if transferred or diverted in the form of milk or skim milk, and as Class II milk is transferred in the form of cream, to an unapproved plant located 100 miles or more from the marketing area, by shortest highway distance as determined by the market administrator.

§ 991.45 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 991.46 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations shall be the pounds in such class allocated to producer milk;

(1) Subtract plant shrinkage of skim milk in producer milk pursuant to § 991.41 (c) (2) from the total pounds of skim milk in Class III milk;

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest priced available use, the pounds of skim milk in other source milk;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers and assigned pursuant to § 991.44.

(4) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph; or if the remaining pounds of skim milk in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the remaining pounds of skim milk in series

beginning with lowest-prices available use.

(b) Allocate classified butterfat to producer milk according to the method prescribed in paragraph (a) of this section for skim milk.

(c) Determine the weighted average butterfat test of the remaining Class I milk, Class II milk, and Class III milk computed pursuant to paragraph (a) and (b) of this paragraph.

MINIMUM PRICES

§ 991.50 *Basic formula price to be used in determining class prices.* The basic formula price per hundredweight of milk to be used in determining the Class I and Class II prices provided by this section shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content determined by the market administrator pursuant to paragraphs (a), (b), or (c) of this section, computed to the nearest tenth of a cent.

(a) The average of the basic (or field prices per hundredweight) reported to have been paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Bellesville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed as follows:

(1) Multiply by six the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department during the delivery period;

(2) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by seven, add 30 percent thereof, and then multiply by 3.5.

(c) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department during the delivery period, subtract two cents, add 20 percent thereof, and then multiply by 3.5; and

(2) From the arithmetical average of the carlot prices per pound for non-fat dry milk solids (not including that specifically designated animal feed) spray and roller process, f. o. b. manufacturing plants in the Chicago area as published by the Department during the delivery period, deduct 5.5 cents for all delivery periods other than March, April, May and June, or deduct 6.5 cents for such delivery periods, multiply by 8.5 and then multiply by 0.965, except that if such agency does not publish such prices f. o. b. manufacturing plants, there shall be used for the purpose of this computation the arithmetical average of the carlot prices thereof, delivered at Chicago, Illinois, as published weekly by such agency during the delivery period; and in the latter event the respective amounts "5.5" cents and "6.5" cents shall each be increased by one cent.

§ 991.51 *Class I milk prices.* Subject to the provisions of § 991.54, the minimum price per hundredweight, on a 3.5 percent butterfat content basis, to be paid by each handler at his plant, for producer milk received and classified as Class I milk, shall be the basic formula price for the preceding delivery period determined pursuant to § 991.50, plus the following:

Delivery period	Amount	
	Grade "A"	Nongrade "A"
May and June	$0.50	$0.40
August, September, October, November	.90	.80
All other months	.70	.60

§ 991.52 *Class II milk prices.* Subject to the provisions of § 991.54, the minimum price per hundredweight, on a 3.5 percent butterfat content basis, to be paid by each handler, at his plant, for producer milk received and classified as Class II milk, shall be the basic formula price for the preceding delivery period determined pursuant to § 991.50, plus the following:

Delivery period	Amount	
	Grade "A"	Nongrade "A"
May and June	$0.30	$0.20
August, September, October, November	.50	.40
All other months	.40	.30

§ 991.53 *Class III milk prices.* Subject to the provisions of § 991.54, the minimum price per hundredweight, on a 3.5 percent butterfat basis to be paid by each handler, at his plant, for producer milk received and classified as Class III milk shall be the same as the basic formula price for the current delivery period.

§ 991.54 *Butterfat differentials to handlers.* If for any handler the weighted average butterfat test of his producer milk in any class is more or less than 3.5 percent, there shall be added to or subtracted from, as the case may be, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.5 percent a butterfat differential (computed to the nearest tenth of a cent) calculated by the market administrator for such class as follows:

(a) Class I milk—multiply by 1.30 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department for the previous delivery period and divide the result by 10.

(b) Class II milk—multiply by 1.30 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department for the previous delivery period and divide the result by 10.

(c) Class III milk—multiply by 1.20 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department during the delivery period and divide the result by 10.

APPLICATION OF PROVISIONS

§ 991.60 *Producer-handlers.* Sections 991.40 to 991.46, 991.50 to 991.54, 991.70 to 991.72, and 991.80 to 991.84, shall not apply to a producer-handler.

§ 991.61 *Milk subject to pricing under other Federal orders.* Except as follows, milk priced under any other Federal milk marketing agreement or order for any other fluid milk marketing area shall not be subject to the provisions of this order:

(a) If such milk is disposed of on a route in the marketing area operated by or for a person subject to regulation as a handler under another order, such person shall report as requested by the market administrator, but shall not otherwise be considered a handler under this order;

(b) If such milk is received at the regulated plant of a handler subject to the provisions of this order in any form other than those stated in § 991.14 (c) and (d), it shall be considered as other source milk;

(c) If the provisions of the order for the other milk marketing area provide for determination as to the order under which milk shall be priced, the Secretary shall so determine; and

(d) Milk received at a plant where any fluid milk is received and bottled for distribution as Class I milk in the marketing area defined in Federal Order No. 69 regulating the handling of milk in the Suburban Chicago, Illinois, milk marketing area shall be subject to pricing and payment under this order only in the event that the Secretary determines that a greater portion of such milk is distributed as Class I and Class II milk in the marketing area herein defined than is disposed of in the marketing area defined in Federal Order No. 69.

DETERMINATION OF UNIFORM PRICES

§ 991.70 *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period, by the applicable class prices, and adding together the resulting amounts: *Provided*, That if a handler, after subtracting other source milk and receipts from other handlers, has disposed of

skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his report for the delivery period pursuant to § 991.30 has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to §§ 991.46 (a) (4) and 991.46 (b) by the applicable class prices.

§ 991.71 *Computation of uniform prices for each handler.* For each delivery period the market administrator shall compute for each handler a uniform price per hundredweight, on the basis of 3.5 percent butterfat content, for producer milk received by such handler as follows:

(a) From the value of milk computed for such handler pursuant to § 991.70, deduct, if the weighted average butterfat test of all producer milk received by him is greater than 3.5 percent, or add, if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the variation from 3.5 percent, of such weighted average test by the producer butterfat differential specified in § 991.81, and multiplying the resulting figure by the total hundredweight of such milk;

(b) Add, or subtract, as the case may be, the amount necessary to correct errors in classification for previous delivery periods, as disclosed by audit of the market administrator;

(c) Adjust the resulting amount by the sum of money used in adjusting the uniform price pursuant to paragraph (e) of this section for the preceding delivery period to the nearest cent;

(d) Divide the result by the total hundredweight of milk received from producers by the handler during the delivery period; and

(e) Adjust the resulting figure to the nearest cent.

§ 991.72 *Notification of handlers.* On or before the 11th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing:

(a) The amount and value of his milk in each class and the totals thereof;

(b) The uniform price for such handler pursuant to § 991.71 and the butterfat differentials computed pursuant to § 991.81.

(c) The amounts to be paid by each handler pursuant to §§ 991.80 to 991.84.

PAYMENTS

§ 991.80 *Payments to producers.* Each handler shall make payments on or before the 15th day after the end of each delivery period to each producer, or on or before the 13th day after the end of each delivery period to each cooperative association, at not less than the uniform price for such delivery period pursuant to § 991.71 adjusted by the producer butterfat differential pursuant to § 991.81 for all milk received from such producer or cooperative association during such delivery period.

§ 991.81 *Producer butterfat differential.* In making payments pursuant to § 991.80 there shall be added to, or subtracted from, the uniform price for milk of 3.5 percent butterfat content, for each one-tenth of one percent of butterfat content in such producer milk above or below 3.5 percent, as the case may be, an amount computed by multiplying the average daily wholesale price per pound of 92-score butter in Chicago, as reported by the Department for the delivery period, by 1.20, dividing by 10, and rounding to the nearest tenth of a cent.

§ 991.82 *Expense of administration.* As his prorata share of the expense incurred pursuant to § 991.22 (d) each handler shall pay the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe with respect to all milk received within the delivery period from producers (including such handler's own production) and from sources other than producers or other handlers.

§ 991.83 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler for each delivery period shall deduct 5¢ per hundredweight or such lesser amount as may be prescribed by the Secretary from the payments made to each producer pursuant to § 991.80, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such monies shall be used by the market administrator to check weights, samples and tests of producer milk received by handlers and to provide producers with market information. Such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) *Deductions with respect to members of, or producers marketing through, a cooperative association.* In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, but for whom such cooperative association does not receive payment for milk, each handler shall make in lieu of the deduction specified in paragraph (a) of this section such deductions from the payment to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 12th day after the end of such delivery period pay every such deduction to the cooperative association rendering such services.

§ 991.84 *Adjustment of accounts*—(a) *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts disclose errors resulting in monies due:

(1) The market administrator from such handler,

(2) Such handler from the market administrator, or

(3) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the 5th day after such notice.

(b) *Interest on overdue accounts.* Any unpaid obligation of a handler pursuant to §§ 991.80, 991.81, 991.82, 991.83, or this section shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and on the first day of each calendar month thereafter until such obligation is paid.

MISCELLANEOUS PROVISIONS

§ 991.90 *Effective time, suspension, or termination*—(a) *Effective time.* The provisions hereof or any amendments hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds that this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

(d) *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent, as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 991.91 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the proviisons hereof.

§ 991.92 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 27th day of July 1949. Sections 991.1 to 991.46 inclusive, 991.60, 991.61, 991.82, 991.84, 991.90, 991.91 and 991.92 to be effective on and after the first day of August 1949, and §§ 991.50 to 991.54 inclusive, 991.70 to 991.72 inclusive,

991.80, 991.81 and 991.83 to be effective on and after the first day of September 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6240; Filed, July 29, 1949; 8:50 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter II—Office of Alien Property, Department of Justice

PART 507—PATENTS, TRADE-MARKS AND COPYRIGHTS

LICENSING CERTAIN TRANSACTIONS BY GERMAN NATIONALS IN WORKS SUBJECT TO COPYRIGHT

Part 507 is hereby amended by addition of § 507.60, as set out below:

§ 507.60 *Licensing certain transactions by German nationals in works subject to copyright*—(a) *Scope.* (1) Section 507.51 prohibits transactions by, on behalf of, or pursuant to the direction of, Germany or Japan, or nationals of either such country, with respect to the United States rights in works subject to copyright, unless such transactions are authorized by the Attorney General or the Director, Office of Alien Property. This section removes certain of such prohibitions affecting German nationals.

(2) Parts 511 and 512 of this chapter prohibit the transfer of funds or credits arising from property of German nationals which was in the United States prior to January 1, 1947. This section authorizes the transfer of funds or credits arising out of transactions licensed hereby.

(3) Section 507.56 authorizes nationals of Germany or Japan to execute and record applications for copyright and renewal under the copyright laws of the United States in works subject to copyright, even if other transactions with respect to such works continue to be prohibited or conditionally licensed by the regulations in this part.

(4) This section is a license under the regulatory powers conferred by the Trading with the Enemy Act, as amended, and is not a license of any proprietary interest which has been acquired or may be acquired by the Attorney General.

(5) Applicable Military Government controls are not affected by the regulations in this part.

(b) *Transactions licensed.* (1) (i) After the effective date of this license, a German national may acquire an interest in a work: *Provided,* That the interest is acquired from a person who is not a national of Germany or Japan and such interest was not the property of Germany or Japan, or a national of either such country, at any time on or since June 14, 1941;

(ii) Regardless of the provisions of subparagraph (2) of this paragraph, any transaction is licensed with respect to interests acquired by German nationals in accordance with the license of subdivision (i) of this subparagraph: *Provided,* That the transaction is not with or on behalf of a national of Japan.

(2) Any transaction is licensed with respect to any interest of a German national in a work not published prior to January 1, 1947: *Provided,* that:

(i) The transaction is not with or on behalf of a national of Japan;

(ii) The interest was not at any time on or since June 14, 1941, the property of Japan or a national thereof;

(iii) The interest was not at any time on or since June 14, 1941, the property of persons described in United States Military Government Law No. 52, Article 1, paragraphs (a), (c) and (e), § 3.15, Subtitle A, Title 10, 12 F. R. 2196, and General Order No. 1 thereunder, paragraph (b) (1) through (44), § 3.16, Subtitle A, Title 10, 12 F. R. 2197; and

(iv) The transaction is licensed by authority of the Military Government in the United States Zone in Germany or the Military Government in any other zone in Germany which has been designated by the Office of Military Government, United States Zone, as maintaining reciprocal copyright relations with the United States Zone.

(c) *Prohibitions continued.* (1) Transactions with respect to any interest in a work published prior to January 1, 1947, continue to be prohibited, unless authorized by the Attorney General, if such interest was the property of Germany, or a national thereof, at any time on or since June 14, 1941, and prior to the effective date of this license, or the property of Japan, or a national thereof, at any time on or since June 14, 1941.

(2) Transactions with respect to any interest in a work not published prior to January 1, 1947, other than those specifically licensed by this section, are prohibited, unless authorized by the Attorney General, if such interest was the property of Germany or Japan, or a national of either such country, at any time on or since June 14, 1941.

(d) *Definitions.* For the purposes of this section:

(1) The term "interest" shall have the meaning as defined in § 507.51 (e);

(2) The term "national" shall have the meaning as defined in § 507.51 (d);

(3) A work shall be deemed to be "published" if it, or any form or version of it, has, in whole or in part, been printed, recorded, or communicated to the public anywhere and by any means, and in the case of a motion picture at the time the original negative is made;

(i) "Any form or version" includes, for example, but not by way of limitation, a dramatization of a novel, a novel based upon a drama, a motion picture based upon a writing, a translation, and any arrangement or adaptation of a writing or a musical composition.

(ii) A work is "printed" if copies of it have been made by any means of making multiple copies for distribution or sale to the public;

(iii) A work is "recorded" if it has been incorporated in any device which is capable of reproducing it and which may be distributed or sold, or by which the material therein may be transmitted to the public; for example, but not by way of limitation, this includes phonograph records, transcriptions, and motion pictures;

(iv) A work is "communicated to the public" if its contents have been made known to the public by any method; for example, but not by way of limitation, this includes distribution of multiple copies, public exhibition, public delivery, performance before the public, or transmission to the public by radio, television, or any other means;

(4) The term "transaction" shall include the execution, or the recording, of any assignment, grant, encumbrance, license, or other agreement, and the transfer of funds and credits arising therefrom;

(5) The term "work" shall include literary and artistic creations copyrighted or copyrightable under the statutory law of the United States or in which there are literary or artistic property rights under the common law of the several states of the United States, and all rights arising under the statutory and common law of the United States and the several states thereof in any of such literary or artistic creations, such as, for example, but not by way of limitation, rights to translate to make any other version, to dramatize, to convert into a novel or other non-dramatic version, to arrange or adapt, to deliver or authorize delivery in public, to perform or authorize performance in public, to transmit or exhibit by radio, television, motion picture, or other means, to make any transcription or record in any manner or by any method, to print, reprint, publish, copy, or vend, and to obtain statutory copyrights or renewals in all forms and versions of the literary or artistic creation.

(e) *Interpretation.* If only a portion of the material contained in a work is subject to the prohibitions or licenses of this section, that portion and the remaining portion of the work shall, for the purposes of this section, be considered as separate works.

(Sec. 301, 55 Stat. 839, as amended; 50 U. S. C. App. and Supp. 616, E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR 1943 Cum. Supp. E. O. 9989, Aug. 20, 1948, 13 F. R. 4891; 3 CFR 1948 Supp.)

Executed at Washington, D. C., this 26th day of July 1949.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-6248; Filed, July 29, 1949; 8:51 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 5559]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

J. & M. SALES CO.

Subpart—*Advertising falsely or misleadingly;* § 3.60 *Earnings.* Subpart—*Securing agents or representatives falsely or misleadingly;* § 3.2130 *Earnings.* Subpart—*Using or selling lottery devices;* § 3.2480 *In merchandising.* In connection with the offering for sale, sale, and distribution of watches, push

cards, and other merchandise in commerce, (1) supplying to, or placing in the hands of, others, watches or other merchandise, together with push cards or any other lottery devices, which said push cards or other devices are to be used, or may be used, in selling or distributing such watches or other merchandise to the public; (2) supplying to, or placing in the hands of, others, push cards or other lottery devices, either with watches or other merchandise or separately, which push cards or other lottery devices are to be used, or may be used, in selling or distributing watches or other merchandise to the public; (3) selling, or otherwise disposing of, watches or any other merchandise by the use of push cards or any other lottery device; or, (4) representing as possible earnings or profits of retailers, operators, or salesmen of said watches, push cards, and other merchandise, for any stated period of time, any specified sum of money which is not a true representation of the net earnings or profits which have been made by a substantial number of respondent's active retailers, operators, or salesmen in the ordinary course of business under normal conditions and circumstances; prohibited.

(Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Joe Katz et al. doing business as J. & M. Sales Company, Docket 5559, July 1, 1949]

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 1st day of July A. D. 1949.

In the Matter of Joe Katz and Marshall Maltz, Individuals and Partners Doing Business as J. & M. Sales Company

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent Joe Katz, in which answer said respondent admits all the material allegations of fact set forth in the complaint and waives all intervening procedure and further hearing as to said facts; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Joe Katz, an individual, trading as J. & M. Sales Company or under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of watches, push cards, and other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Supplying to, or placing in the hands of, others, watches or other merchandise, together with push cards or any other lottery devices, which said push cards or other devices are to be used, or may be used, in selling or distributing such watches or other merchandise to the public.

2. Supplying to, or placing in the hands of, others, push cards or other lottery devices, either with watches or other merchandise or separately, which push cards or other lottery devices are to be used, or may be used, in selling or distributing watches or other merchandise to the public.

3. Selling, or otherwise disposing of, watches or any other merchandise by the use of push cards or any other lottery device.

4. Representing as possible earnings or profits of retailers, operators, or salesmen of said watches, push cards, and other merchandise, for any stated period of time, any specified sum of money which is not a true representation of the net earnings or profits which have been made by a substantial number of respondent's active retailers, operators, or salesmen in the ordinary course of business under normal conditions and circumstances.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with it.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 49-6234; Filed, July 29, 1949; 8:46 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg.,[1] Amdt. 136]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

OKLAHOMA

The controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, Item 250, is amended to describe the counties in the Defense-Rental Area as follows:

Cleveland; and Oklahoma, except the City of Bethany.
Canadian, except the City of Yukon.

This decontrols from §§ 825.1 to 825.12 (1) the City of Purcell in McClain County, Oklahoma, a portion of the Oklahoma City, Oklahoma, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said McClain County, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 250b, is amended to read as follows:

(250b) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 (1) the City of Stillwater, Payne County, Oklahoma, a portion of the Stillwater, Oklahoma, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of the said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective July 27, 1949.

Issued this 27th day of July 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-6235; Filed, July 29, 1949; 8:46 a. m.]

[Rent Regs., Corr.]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CALIFORNIA

The Rent Regulations under the Housing and Rent Act of 1947, as amended, are corrected, in the following respects:

1. In Amendment 133 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12),[1] the paragraph "This amendment shall become effective July 20, 1949" is corrected to read as follows:

This amendment, except Item 1, shall become effective July 20, 1949. Item 1, which decontrols certain portions of Orange County, California, a part of the Los Angeles, California, Defense-Rental Area, shall become effective October 1, 1949.

2. In Amendment 128 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92)[2] the paragraph "This amendment shall become effective July 20, 1949" is corrected to read as follows:

This amendment, except Item 1, shall become effective July 20, 1949. Item 1, which decontrols certain portions of Orange County, California, a part of the Los Angeles, California, Defense-Rental Area, shall become effective October 1, 1949.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This correction shall be effective as of July 20, 1949.

Issued this 27th day of July 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-6237; Filed, July 29, 1949; 8:46 a. m.]

[1] 13 F. R. 5706, 5788, 5789, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8218, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 682, 695, 856, 918, 979, 1005, 1083, 1345, 1394, 1519, 1570, 1571, 1587, 1666, 1733, 1760, 1823, 1868, 1932, 2059, 2060, 2084, 2176, 2233, 2412, 2441, 2545, 2605, 2607, 2608, 2695, 2746, 2761, 2796, 2897, 3079, 3120, 3152, 3200, 3234, 3280, 3311, 3353, 3399, 3451, 3467, 3494, 3556, 3617, 3672, 3673, 3704, 3705, 3745, 3773, 3813, 3848, 3992, 4481, 4450, 4451, 4618.

[1] 14 F. R. 4818.
[2] 14 F. R. 4817.

[Controlled Rooms in Rooming Houses and Other Establishments, Rent Reg.,[1] Amdt. 132]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

OKLAHOMA

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, Item 250, is amended to describe the counties in the Defense-Rental Area as follows:

Cleveland; and Oklahoma, except the City of Bethany.
Canadian, except the City of Yukon.

This decontrols from §§ 825.81 to 825.92 (1) the City of Purcell in McClain County, Oklahoma, a portion of the Oklahoma City, Oklahoma, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said McClain County, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 250b, is amended to read as follows:

(250b) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 (1) the City of Stillwater, Payne County, Oklahoma, a portion of the Stillwater, Oklahoma, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of the said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective July 27, 1949.

Issued this 27th day of July 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-6236; Filed, July 29, 1949; 8:46 a. m.]

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8219, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345, 1520, 1570, 1582, 1587, 1669, 1670, 1734, 1759, 1869, 1932, 2061, 2062, 2085, 2176, 2237, 2413, 2440, 2441, 2545, 2607, 2608, 2695, 2746, 2761, 2796, 3079, 3121, 3153, 3201, 3234, 3280, 3311, 3353, 3400, 3451, 3468, 3494, 3555, 3617, 3675, 3705, 3772, 3811, 3812, 3849, 3993, 4482, 4451, 4452, 4617.

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

PART 306—PROCESSING TAX ON CERTAIN OILS

TERMINATION OF SUSPENSION

CROSS REFERENCE: For termination of the suspension of additional processing tax on certain coconut oil, see Proclamation 2847, Title 3 *supra*.

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 33—CENTRAL REGION

FISHING IN LONG LAKE NATIONAL WILDLIFE REFUGE, NORTH DAKOTA

Basis and purpose. On the basis of observation and reports of representatives of the Fish and Wildlife Service, it has been determined that fishing can be permitted on limited areas of the Long Lake National Wildlife Refuge, North Dakota, without interfering with or being detrimental to the wildlife frequenting the area.

Since the following regulations are relaxations of the present prohibition against fishing on the Long Lake National Wildlife Refuge, the notice and public rule-making procedure required by the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001 et seq.) are hereby found to be impracticable and the effective date requirement does not apply.

Effective upon publication of this document in the FEDERAL REGISTER, the following subpart is added:

SUBPART—LONG LAKE NATIONAL WILDLIFE REFUGE, NORTH DAKOTA

Sec.
33.96 Fishing permitted.
33.97 Entry.
33.98 Use of boats prohibited.
33.99 Temporary restrictions.

AUTHORITY: §§ 33.96 to 33.99 issued under 50 CFR 21.41, 13 F. R. 9351.

§ 33.96 *Fishing permitted.* Noncommercial fishing is permitted during the daylight hours of the period April 16 to September 30 of each year on those areas of the Long Lake National Wildlife Refuge which are designated by suitable posting by the officer in charge in accordance with the provisions of §§ 33.97 to 33.99.

§ 33.97 *Entry.* Entry on and use of the Refuge for any purpose are governed by the regulations in Parts 18 and 21 of this chapter and strict compliance therewith is required. All fishermen must comply with the fishing laws and regulations of the State of North Dakota, and must have on their person and exhibit at the request of any authorized Federal or State officer whatever license is required by such laws and regulations, which license shall serve as a Federal permit for fishing in the waters of the Refuge.

§ 33.98 *Use of boats prohibited.* The use of boats, canoes, or floating devices of any description is prohibited on all waters of the Refuge except for official purposes.

§ 33.99 *Temporary restrictions.* The officer in charge may temporarily suspend fishing in all or parts of the Refuge area by suitable posting, when, in his judgment, such action is necessary for the protection of migratory waterfowl, wildlife concentrations, fishes and other aquatic animal life, food and cover plantings for wildlife, or for the carrying out of official operations in such area or areas.

Dated: July 25, 1949.

[SEAL] O. H. JOHNSON,
Acting Director.

[F. R. Doc. 49-6222; Filed, July 29, 1949; 8:45 a. m.]

PROPOSED RULE MAKING

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 12]

[Docket No. 9295]

AMATEUR RADIO SERVICE

ORDER EXTENDING TIME IN WHICH TO FILE COMMENTS

In the matter of amendment of Part 12 of the Commission's Rules Governing Amateur Radio Service.

The Commission having under consideration requests to extend beyond July 20, 1949, the time within which comments in the above-captioned matter may be filed;

It appearing, that it is desirable to extend the comment period in this matter;

It is ordered, That the time within which to file comments in Docket 9295 is extended to August 22, 1949.

Adopted: July 19, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6239; Filed, July 29, 1949; 8:50 a. m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9389]

SUNSHINE TELEVISION CORP. (WSEE)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Sunshine Television Corporation (WSEE), St. Petersburg, Florida, for extension of TV completion date, Docket No. 9389, File No. BMPCT-529.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 20th day of July 1949.

The Commission having under consideration the above-entitled application of the Sunshine Television Corporation (File No. BMPCT-529) for additional time in which to complete construction of TV broadcast station WSEE, St. Petersburg, Florida; and

It appearing, that on April 29, 1948, the Commission granted the Sunshine Television Corporation a construction permit for TV broadcast station WSEE at St. Petersburg, Florida (BPCT-336); and

It further appearing, that Sunshine Television Corporation has not completed the construction of TV station WSEE within the period specified in said construction permit, as amended; and that the said station is not ready for operation; and

It further appearing, that the Commission is unable to find that the failure of the Sunshine Television Corporation to complete construction of the said station and have it ready for operation was due to causes beyond the permittee's control, or that the permittee has been diligent in proceeding with the construction of said station; and

It further appearing, that on June 15, 1949, the Commission denied the above-entitled application of the Sunshine Television Corporation (BMPCT-529) for additional time in which to complete construction of TV broadcast station WSEE at St. Petersburg, Florida; and that the Commission by a letter dated June 15, 1949, gave the Sunshine Television Corporation 20 days within which to request a hearing on its above-entitled application; and

It further appearing, that on July 1, 1949, the Sunshine Television Corporation filed a request for a hearing in its above-entitled application (BMPCT-529) for additional time in which to complete construction of TV broadcast station WSEE, St. Petersburg, Florida;

It is ordered, That the Commission's action of June 15, 1949, denying the above-entitled application (BMPCT-529) be set aside; and

It is further ordered, That, pursuant to sections 309 and 319 of the Communications Act of 1934, as amended, and § 3.615 of the Commission's rules and regulations, the above-entitled application (BMPCT-529) be designated for hearing, to commence on September 8, 1949, at Washington, D. C., upon the following issues:

1. To determine whether the failure of the Sunshine Television Corporation to complete construction of its authorized TV station at St. Petersburg, Florida, and to have the station ready for operation was due to causes not under its control.

2. To determine whether Sunshine Television Corporation has been diligent in proceeding with the construction of its authorized TV station at St. Petersburg, Florida.

3. In view of the evidence adduced in connection with the foregoing issues, to determine whether the date specified for completion of construction of said station should be extended, and if so, to what date.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6238; Filed, July 29, 1949; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1193]

ARKANSAS LOUISIANA GAS CO.

ORDER FIXING DATE OF HEARING

On April 8, 1949, Arkansas Louisiana Gas Company, a Delaware corporation, having its principal place of business at Shreveport, Louisiana, filed an application, as amended on May 16, 1949, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas pipeline facilities, subject to the jurisdiction of the Commission, as more fully described in such application, as amended, on file with the Commission and open to public inspection, public notice thereof having been given, including publication in the FEDERAL REGISTER on April 28, 1949 (14 F. R. 2098). The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a public hearing be held commencing on August 15, 1949, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by the application, as amended.

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) of the Commission's rules of practice and procedure.

Date of issuance: July 26, 1949.

By the Commission.

[SEAL] LEON F. FUQUAY,
Secretary.

[F. R. Doc. 49-6223; Filed, July 29, 1949; 8:45 a. m.]

[Docket No. G-1218]

EL PASO NATURAL GAS CO.

ORDER FIXING DATE OF HEARING

On June 3, 1949, El Paso Natural Gas Company (Applicant), a Delaware corporation having its principal place of business at El Paso, Texas, filed an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas facilities, subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission and open to public inspection.

The Commission finds: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure, applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on June 16, 1949 (14 F. R. 3267).

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a hearing be held on August 11, 1949, at 9:45 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, forthwith dispose of the proceedings pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the said rules of practice and procedure.

Date of issuance: July 26, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-6224; Filed, July 29, 1949; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2175]

COLUMBIA GAS SYSTEM, INC.

SUPPLEMENTAL ORDER RELEASING CERTAIN JURISDICTION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its

office in the city of Washington, D. C., on the 26th day of July 1949.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, having filed a declaration and amendments thereto, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale, pursuant to the competitive bidding requirements of Rule U-50, of $13,000,000 principal amount of debentures due August 1974; and

The Commission having, by order dated July 19, 1949, permitted said declaration, as amended, to become effective, subject to the condition, among others, that the proposed sale of debentures shall not be consummated until the results of competitive bidding pursuant to Rule U-50 shall have been made a matter of record in this proceeding, and a further order shall have been entered in the light of the record so completed; and jurisdiction having been reserved over the payment of all legal fees and expenses in connection with the proposed transaction; and

Columbia having, on July 26, 1949, filed a further amendment to said declaration in which it is stated that it has offered the debentures for sale pursuant to the competitive bidding requirements of Rule U-50 and has received the following bids:

Bidder	Price to Columbia	Interest rate	Cost to Columbia
	Percent	*Percent*	*Percent*
Halsey, Stuart & Co., Inc.	100.63991	3	2.96364
Morgan Stanley & Co.	100.45999	3	2.97386
Merrill Lynch, Pierce, Fenner & Beane	100.3899	3	2.97784
Salomon Bros. & Hutzler	100.3079	3	2.98250
Lehman Bros.-Goldman, Sachs & Co., Union Securities Corp.	100.07	3	2.99602

The amendment further stating that Columbia has accepted the bid of Halsey Stuart & Co., for the debentures as set forth above and that the debentures will be offered for sale to the public at a price of 101.125% of principal amount thereof, resulting in an underwriter's spread of 0.48509%; and

The legal fees and expenses proposed to be incurred in connection with the proposed sale of debentures having been estimated as follows:

Cravath Swaine & Moore, counsel for Columbia	$8,500
Shearman & Sterling & Wright, counsel for bidders	8,500
Local counsel for Columbia	1,350
Total	18,350

The Commission having examined said amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to the price to be received for said debentures, the redemption prices thereof, the interest rate thereon and the underwriter's spread; and

It appearing that the proposed legal fees and expenses are not unreasonable and that jurisdiction with respect thereto should be released:

It is hereby ordered, That jurisdiction heretofore reserved in connection with the sale of said debentures be, and the same hereby is, released, and that the said declaration, as further amended, be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24 of the general rules and regulations under the act.

It is further ordered, That jurisdiction heretofore reserved over all legal fees and expenses in connection with the proposed transaction be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. BUBOIS,
Secretary.

[F. R. Doc. 49-6225; Filed, July 29, 1949; 8:46 a. m.]

[File Nos. 54-75, 54-161, 59-8, 59-20]

COMMONWEALTH & SOUTHERN CORP. (DELAWARE) ET AL.

SUPPLEMENTAL ORDER AUTHORIZING DISTRIBUTION OF CERTAIN STOCK, TRANSFER OF ASSETS, AND RELEASING CERTAIN JURISDICTION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of July 1949.

In the matter of The Commonwealth & Southern Corporation (Delaware), File No. 54-161; The Commonwealth & Southern Corporation (Delaware), Respondent, File No. 59-20; The Commonwealth & Southern Corporation (Delaware), and its subsidiary companies, Respondents, File No. 59-8; The Commonwealth & Southern Corporation (Delaware), File No. 54-75.

The Commission by its opinion and order dated November 22, 1948, having approved a plan of reorganization of The Commonwealth & Southern Corporation ("Commonwealth"), a registered holding company, filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 (the "act"), providing, in substance, (a) for the retirement of all of Commonwealth's outstanding preferred stock by the distribution in exchange therefor of its common stock holdings in two of its subsidiaries, Consumers Power Company and Central Illinois Light Company, (b) for the distribution to Commonwealth's common stockholders of substantially all of Commonwealth's remaining assets consisting principally of its common stock holdings in two of its other subsidiaries, The Southern Company and Ohio Edison Company, and (c) for the dissolution of Commonwealth; and

Said plan providing that, in lieu of the issuance of fractional shares to which a holder of Commonwealth's preferred or common stock might be entitled upon distribution of Commonwealth's portfolio securities, scrip may be issued or the fractional shares sold, and having provided for the appointment of a scrip agent to handle such transactions, and said plan reserving to Commonwealth the right to invest any cash or other assets held by it in the securities of any companies which are its directly owned subsidiaries on the date the primary distribution thereunder is made to the common stockholders; and

The Commission by its order approving said plan having reserved jurisdiction over, among other matters, (a) the approval of the designation of a scrip agent and the powers, rights, and duties thereof, (b) the amounts of common stock of Ohio Edison Company and cash to be distributed under the plan to Commonwealth's common stockholders, and (c) the dispqsition, expenditure, or distribution of any of the assets of Commonwealth, or of the proceeds of the sale thereof, not specifically authorized by the order of November 22, 1948; and

The Commission, pursuant to the request of Commonwealth, having applied to the United States District Court for the District of Delaware for an order enforcing and carrying out the terms and provisions of the plan, and said court, on July 15, 1949, having issued its order approving said plan and enforcing and carrying out the terms and provisions thereof, and said order having fixed October 1, 1949, as the date for the distribution of securities under Commonwealth's plan; and

Commonwealth having filed an application for approval of the appointment of The First National Bank of the City of New York as distribution and scrip agent in respect of the preferred stock of Commonwealth, and Bankers Trust Company as distribution and scrip agent in respect of the common stock of Commonwealth, with certain specified powers and duties, and for authority to include as a part of the distribution to its common stockholders to be made on October 1, 1949, 2,020,399.68 shares of the common stock of Ohio Edison Company, or 0.06 share thereof for each share of Commonwealth's common stock, and to transfer all remaining assets, after payment of all its expenses and liabilities incident to the consummation of the plan, to The Southern Company; and

Commonwealth having represented that it will retire all of its outstanding notes payable to banks prior to October 1, 1949:

It is ordered, That Commonwealth is hereby authorized and directed to include as a part of the distribution to its common stockholders to be made on October 1, 1949, 2,020,399.68 shares of common stock of Ohio Edison Company, or 0.06 share of the common stock of Ohio Edison Company for each share of common stock of Commonwealth.

It is further ordered, That Commonwealth is hereby authorized and directed to transfer all of its remaining assets, after the distribution to its stockholders to be made on October 1, 1949, and after payment of all its expenses and liabilities incident to the consummation of the plan, or otherwise, to The Southern Company.

It is further ordered, That the jurisdiction heretofore reserved by the order of this Commission dated November 22, 1948, with respect to the appointment of

a scrip agent and the powers, rights and duties thereof be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-6226; Filed, July 29, 1949; 8:53 a. m.]

[File No. 70-2027]

MINNESOTA POWER & LIGHT CO. AND AMERICAN POWER & LIGHT CO.

ORDER RELEASING JURISDICTION OVER LEGAL FEES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of July A. D. 1949.

American Power & Light Company ("American"), a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company and American's utility subsidiary, Minnesota Power & Light Company ("Minnesota"), having filed a joint application-declaration and amendments thereto pursuant to sections 6 (a), 7, 9 (a), 10, 12 (c) and 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-43 of the rules and regulations promulgated thereunder with respect to the issuance and sale of 59,090 shares of common stock by Minnesota to the holders of its outstanding common stock on a rights basis at a price of $21 per share; and

The Commission, by order dated February 4, 1949, having approved said transaction subject to a reservation of jurisdiction as to legal fees and expenses aggregating $7,000, of which $4,000 is payable to Reid & Priest, New York counsel for the company and $3,000 is payable to Gillette, Nye, Montague, Sullivan & Atmore, local counsel for the company, and the record having been completed with respect to the above fees and expenses showing the nature and extent of services rendered; and

The Commission having examined the record with respect to the above fees and expenses and finding that the proposed amounts are not unreasonable and that it is appropriate to release jurisdiction with respect thereto:

It is ordered, That jurisdiction heretofore reserved with respect to legal fees and expenses in this matter be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-6228; Filed, July 29, 1949; 8:54 a. m.]

[File No. 70-2041]

MINNESOTA POWER & LIGHT CO.

ORDER RELEASING JURISDICTION OVER CERTAIN FEES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of July A. D. 1949

Minnesota Power & Light Company ("Minnesota"), a utility subsidiary of American Power & Light Company, which is a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, having filed an application-declaration and amendments thereto with respect to the issuance and sale of $4,000,000 principal amount of its First Mortgage Bonds pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 and Rule U-50 of the rules and regulations promulgated thereunder; and

The Commission by orders entered February 24, 1949, and March 8, 1949, having approved said transaction subject to a reservation of jurisdiction as to the following fees and expenses:

Legal fees:	
Reid & Priest (New York counsel for company)	$6,500
Gillette, Nye, Montague, Sullivan & Atmore (local counsel for company)	4,500
Crawford & Crawford (local counsel for company)	2,000
Beekman & Bogue (counsel for the the underwriters—fee to be paid by purchasers)	5,000
Service company fees:	
Ebasco Services, Inc	10,000

The record having been completed with respect to the above fees and expenses showing the nature and extent of services rendered; and

The Commission having examined the record with respect to the above fees and finding that the proposed amounts are not unreasonable and that it is appropriate to release jurisdiction with respect thereto:

It is ordered, That jurisdiction heretofore reserved with respect to payment of fees and expenses of counsel and the fee of Ebasco Services, Incorporated, be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-6227; Filed, July 29, 1949; 8:53 a. m.]

[File No. 50-29]

AMERICAN GAS AND ELECTRIC CO. AND OHIO POWER CO.

ORDER GRANTING EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of July A. D. 1949.

The Ohio Power Company ("Ohio"), an electric utility subsidiary of American Gas and Electric Company, a registered holding company, having filed an application for exemption from the requirements of the Public Utility Holding Company Act of 1935 and the rules and regulations promulgated thereunder pursuant to Rule U-100 of such rules with respect to the following transactions:

Ohio proposes to sell approximately 21 miles of single circuit 132,000 volt wood pole transmission lines located in Warren and Butler Counties, Ohio to Cincinnati Gas & Electric Company ("Cincinnati") for a consideration of $267,738.85 which is the estimated installed cost thereof including right-of-way. In addition, Ohio proposes to construct and maintain a 132,000 volt transmission line upon part of the circuit space of the steel tower structures of Cincinnati and to install and maintain four 132,000 volt oil circuit breakers upon the premises of a substation of Cincinnati in return for which Ohio will pay Cincinnati $33,600 per year for a term of 50 years and thereafter for successive one year periods, and

Ohio and Cincinnati having filed a joint application with the Federal Power Commission seeking authorization in respect of the aforementioned transactions.

It appearing in view of the nature of the transactions and the jurisdiction of the Federal Power Commission over both the buyer and seller of the properties that it is not necessary or appropriate in the public interest or the protection of investors or consumers that such transactions be subject to the requirements of Rule U-44:

It is ordered, Pursuant to the provisions of said Rule U-100 (a), that the application for exemption be, and the same hereby is, granted, effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-6229; Filed, July 29, 1949; 8:54 a. m.]

[File No. 50-17]

UNITED CORP.

ORDER GRANTING EXEMPTION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 25th day of July 1949.

The United Corporation, a registered holding company, having filed an application pursuant to Rule U-100, promulgated under the Public Utility Holding Company Act of 1935, for exemption from the requirements of Rule U-44, promulgated under the act, with respect to the sale by United on the New York Stock Exchange, during a three-month period commencing three days after the date of this order, of not more than 50,000 shares of common stock of Columbia Gas System, Inc. out of a total of 1,031,336 shares of such common stock held by The United Corporation; and

The United Corporation having in its application represented that it will submit to the Commission weekly reports, in such form as the Commission may prescribe, on sales made under the granted exemption; and

It appearing to the Commission that the requirements of Rule U-44, as applied to the proposed transactions, are not necessary or appropriate in the public interest or for the protection of investors or consumers;

It is ordered, Pursuant to said Rule U-100, that the application be, and hereby is, granted forthwith, without preju-

dice, however, to the withdrawal of the exemption afforded hereby upon notification thereof to The United Corporation;

It is further ordered, That the United Corporation submit weekly reports to this Commission setting forth, with respect to each transaction, the number of shares sold, date of sale, price received and name of broker effecting transaction.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-6230; Filed, July 29, 1949; 8:54 a. m.]

[File Nos. 52-28, 54-183]

PITTSBURGH RAILWAYS CO., AND PHILADELPHIA CO.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING ON PLANS; AND ORDER FOR CONSOLIDATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 21st day of July 1949.

In the matter of Elmer E. Bauer, Trustee of Pittsburgh Railways Company, Debtor, and Philadelphia Company, File No. 52-28; Philadelphia Company, File No. 54-183.

I. Notice is hereby given that Elmer E. Bauer, Trustee of Pittsburgh Railways Company, Debtor, and Philadelphia Company, a registered holding company, which is the parent of and owns all of the outstanding preferred and common stocks of said Debtor, have filed a joint application with this Commission for approval of a plan pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935 ("act") for the reorganization of the Pittsburgh Railways System ("Railways System") under the Bankruptcy Act. Applicants state that the plan is designed to effectuate compliance with the provisions of section 11 (b) and other applicable provisions of the act, and is a part of, and included in, the "Combined Plan for Reorganization of the Pittsburgh Railways System under the Bankruptcy Act and For Discharge under the Public Utility Holding Company Act of 1935 of Philadelphia Company's Guarantees Affecting Pittsburgh Railways System Securities, dated July 1, 1949" ("Combined Plan").

II. Notice is further given that Philadelphia Company has filed an application with this Commission for approval of a plan pursuant to section 11 (e) of the act for the discharge of its guarantees affecting Railways System securities. Philadelphia Company states that the plan is designed to effectuate compliance with the provisions of section 11 (b) of the act, and is a part of, and included in, the Combined Plan.

III. All interested persons are referred to the Combined Plan, which is on file in the offices of this Commission, for a statement of the transactions therein proposed, which may be summarized as follows:

Pittsburgh Railways Company ("Railways"), a subsidiary of Philadelphia Company, and Railways' subsidiary, Pittsburgh Motor Coach Company ("Motor Coach"), filed voluntary petitions for reorganization under the Bankruptcy Act on May 10, 1938, in the United States District Court for the Western District of Pennsylvania (Docket No. 20225). Railways operates a mass transit system in the City of Pittsburgh, Pa., and its environs. Motor Coach operates feeder and through bus service as an integral part of this system. At present there are fifty-two different corporations, known as underliers, whose properties, franchises, or other interests are operated by Railways under operating agreements, or stock ownership, or long-term leases, or a combination of the same. It has been judicially determined that the underliers are subject to the jurisdiction of the Reorganization Court (*In re Pittsburgh Railways Company*, 155 F. 2d 477 (C. A. 3, 1946), cert. denied 329 U. S. 731). Philadelphia Company is the largest single claimant against the Railways System based on its holdings of stocks, bonds, notes, or other obligations of Railways and the underliers. In addition, certain of Philadelphia Company's non-traction subsidiaries own minor additional amounts of Railways System securities. At the same time, Philadelphia Company is obligated on various Railways System securities by virtue of the fact that it has guaranteed particular bond issues and also has guaranteed performance under certain system leases.

During the course of the proceedings in the Reorganization Court, various plans have been proposed by predecessor Trustees in which it was proposed to treat the claims of Philadelphia Company on a basis of parity with those of public security holders. The latter objected to parity treatment and contended that Philadelphia Company's claims, which approximate $81,000,000 (exclusive of interest and dividend accruals but inclusive of $5,000,000 of capital stock of Railways), should be equitably subordinated to the public security holders' claims which approximate $27,000,000 in principal and par amounts. Hearings to resolve this issue, in progress since 1947, were suspended early in 1949 to permit exploration of compromise possibilities. After study and discussion with representatives of public security holders and the staff of this Commission, Philadelphia Company advanced before the Court a compromise proposal which is now embodied in the Combined Plan. The staff of this Commission has announced that it supports and recommends the approval by the Commission of the Combined Plan.

It is proposed in the Combined Plan that all underlier companies will be eliminated, and that a single company ("New Company") will own and operate the properties now comprising the Railways System. New Company's capital structure will consist of equipment obligations (approximately $2,600,000 at July 1, 1949), twenty-year 5% First Mortgage Bonds ("new bonds") of not more than $6,000,000 principal amount, and 1,076,096 shares of a single class of no-par stock ("new stock"). As of December 31, 1948, the Trustee of Railways held approximately $22,900,000 in cash and government securities. It is proposed that after providing for initial operating requirements of New Company, cash will be distributed, as hereinafter provided, in an amount not less than $17,000,000 (exclusive of cash to be paid to holders of claims not based on securities). If the distributable cash exceeds the minimum of $17,000,000, the principal amount of new bonds will be reduced from $6,000,000 to the extent of the excess, but, in any event, the total of cash and principal amount of new bonds to be distributed to public security holders will equal $23,000,000. In addition, public security holders will receive 49.1% of the new stock; Philadelphia Company will receive the balance of the new stock.

Treatment of claims based on securities. The proposed allocation of the $23,000,000 in cash and principal amount of new bonds and the 1,076,096 shares of new stock, as among groups of security holders, may be summarized as follows:

1. Holders of Railways System securities affected by a guarantee of Philadelphia Company ("guaranteed bonds" and "guaranteed stocks"), publicly outstanding at the date of the plan in the principal and par amount of $10,902,167, will receive cash in the aggregate amount of $10,767,909, and surrender all rights, including guarantees, on such securities.

2. Holders of Railways System unguaranteed bonds, publicly outstanding at the date of the plan in the principal amount of $11,707,500, will receive cash and principal amount of new bonds aggregating $11,707,500 plus 150,763 shares (14.0%) of new stock.

3. Holders of Railways System unguaranteed stocks, publicly outstanding at the date of the plan in the par amount of $4,515,550, will receive $449,607 in cash plus 377,655 shares (35.1%) of new stock.

4. Philadelphia Company and its subsidiaries, which hold bonds, stocks, and other claims against the Railways System exceeding $76,000,000, exclusive of interest and dividend accruals and exclusive of $5,000,000 of capital stock of Railways, which is deemed insolvent, will receive 547,678 shares (50.9%) of new stock and will be discharged from all guarantee obligations in respect of Railways System securities. It is also proposed that Philadelphia Company shall have the right, subject to approval by this Commission to acquire guaranteed securities subsequent to the date of the plan and to participate in the plan, in the event of such acquisition, on the same basis as predecessor public holders.

The proposed allocation of cash and new securities as to each issue of securities publicly held at the date of the plan is as follows:

GUARANTEED BONDS

For each $1,000 bond, holders will receive cash in the following amounts:

	Cash
Mount Oliver Incline Ry.—6s, 1954	$1,050
Pittsburgh Rys.—5s, 1953	1,050
South Side Passenger R. R.—5s, 1953	1,060
Suburban Rapid Transit Street Ry.—6s, 1953	1,090

GUARANTEED STOCKS

For each share, holders will receive cash in the following amounts:

	Cash
Monongahela Street Ry	$48.00
Mount Oliver Incline Ry	52.00
Pittsburgh & Birmingham Passenger R. R.	52.00
Pittsburgh & Birmingham Traction	50.00
Pittsburgh Incline Plane	170.00
Suburban Rapid Transit Street Ry	46.50

UNGUARANTEED BONDS

For each $1,000 bond, holders will receive the following:

	Total cash and principal amount of new bonds	Shares of new stock
Allegheny & Bellevue Street Ry 5s, 1920	$1,000	13
Ardmore Street Ry 5s, 1958	1,000	12
Central Passenger Ry 5s, 1924	1,000	14
Central Traction 5s, 1929	1,000	14
Citizens Traction 5s, 1927	1,000	13
Duquesne Traction 5s, 1930	1,000	14
Fed. St. & Pl. Val. Pass. Ry. 5s, 1919	1,000	14
Fed. St. & Pl. Val. Pass. Ry 5s, 1942	1,000	13
Fort Pitt Traction 5s, 1935	1,000	14
Millvale, Etna & Sharp. Street Ry 5s, 1923	1,000	13
Penn Street Ry 6s, 1922	1,000	14
Pittsburgh, Alleg. & Man. Traction 5s, 1930	1,000	13
Pitts., Canon., & Washington Ry. 5s, 1937	1,000	14
Pitts., Crafton & Mans. Street Ry 5s, 1924	1,000	14
Pitts. Traction 5s, 1927	1,000	13
Second Ave. Traction 5s, 1933	1,000	14
Southern Traction 5s, 1950	1,000	12
The Second Ave. Traction 5s, 1934	1,000	14
United Traction Co. of Pittsburgh 5s, 1997	1,000	12
Washington & Canonsburg Ry. 5s, 1932	1,000	14
Washington Electric Street Ry. 5s, 1927	1,000	14
West End Traction 5s, 1938	1,000	14
West Liberty & Sub. Street Ry. 5s, 1938	1,000	14

UNGUARANTEED STOCKS

For each share, holders will receive the following:

	Cash	Shares of new stock
Allegheny Traction	$5.00	4.2
Central Traction	3.00	2.5
Citizens Traction	5.00	4.2
Consolidated Traction	5.00	4.2
Duquesne Traction	5.00	4.2
Federal St. & Pl. Val. Pass. Ry.	2.50	2.1
Pittsburgh Traction	3.80	3.2
United Traction Co. of Pittsburgh	5.00	4.2

Treatment of claims not based on securities. The Combined Plan makes provision for the discharge of claims not based on securities, as follows:

1. Tax claims, in such amounts as are finally allowed by settlement, litigation or otherwise, will be paid in cash.

2. Workmen's compensation claims will be paid in full in cash.

3. Creditors who have claims based on personal injuries and property damage that occurred prior to the inception of the reorganization proceedings, will be paid 50% of the liquidated principal amount of their claims as allowed, plus court costs. The amount of such liquidated claims at December 31, 1948, was $474,533 plus $14,596 of court costs; in addition, there were pending 15 suits in which damages aggregating a maximum of $197,100 were claimed.

4. The City of Pittsburgh will be paid the sum of $101,140.06 in full settlement of all of its claims based on bridge rentals, franchise levies, car, pole, wire, street cleaning, and other charges. The County of Allegheny will be paid the sum of $87,493.30 in full settlement of its claims based on bridge rentals. Other municipal creditors having claims based on franchise levies, car, pole, wire, street cleaning, and other charges, the amounts of which have not been determined or allowed, will be paid in cash amounts aggregating $18,941.25.

5. Creditors who have claims for merchandise or services entitled to priority under the six months' rule, except Philadelphia Company and its subsidiaries, will receive cash payment of the principal amount as fixed and allowed. The amount of such claims was $142,278 at December 31, 1948.

6. Creditors whose claims for merchandise or services are not entitled to priority under the six months' rule, except Philadelphia Company and its subsidiaries, will receive cash payment of 15% of the principal amount of their claims as fixed and allowed. The amount of such claims, as of December 31, 1948, aggregated $58,184.

7. The claims of the County of Allegheny for bridge construction, the amount of which has not been determined or allowed, will be discharged by a cash payment of $17,500.

8. The agreement under which West Penn Railways Company asserts a claim on account of the operation of certain trackage will be rejected unless prior to the approval of the plan a settlement approved by the Court is reached with that Company.

9. The Pittsburgh & Castle Shannon Rail Road Company will receive $96,000 in cash, in consideration of which it will grant, convey and transfer to the Reorganization Trustee or New Company all of the property now leased by it to Railways, and will cancel and extinguish any and all claims which it has against Railways, the Trustees, or New Company.

It is proposed in the Combined Plan that all claims in favor of Railways and Motor Coach which are not settled or adjusted in the reorganization proceedings, or in the plan, or in connection with consummation of the plan, shall be retained and enforced by the Trustee. Unless the Court shall order otherwise, the Trustee shall also retain the defense of all claims which have not been finally allowed or disallowed prior to consummation of the plan. The Court will retain continuing jurisdiction, after consummation of the plan, over the prosecution and defense of such claims and fix the compensation to be paid the Trustee and his attorneys in connection therewith. New Company will assume and pay such compensation and all liabilities and expenses incurred by the Trustee in the prosecution or defense of the claims. The net proceeds resulting from all such claims will be paid to New Company which will also pay any claims finally allowed or determined.

IV. *Description of new securities to be issued.* As heretofore stated, it is proposed in the Combined Plan to issue new bonds and new stock which, with equipment obligations, will constitute the capital structure of New Company. Among other provisions relating to the new bonds and new stock are the following:

1. The new bonds will be secured by a direct, first lien upon all properties, real and personal, owned or after acquired by New Company, subject to outstanding equipment obligations, and the right of New Company to acquire property and secure the price by purchase-money mortgage and to purchase equipment or other property under equipment trusts or similar obligations. The new bonds will be dated January 1, 1950 and mature twenty years thereafter; they will bear interest at 5% per annum payable semi-annually. They will be callable for redemption at the option of New Company at 105% of principal during the first year, decreasing ¼ of 1% on the 1st day of January of each successive year, plus accrued interest. A sinking fund is provided whereby on or before each semi-annual interest date, but not before six months after the effective date of the plan, New Company will pay in cash to the indenture trustee an amount equal to 4% of the new bonds initially issued, but not to exceed $200,000; the indenture trustee will pay interest on outstanding bonds and transfer the remainder to the sinking fund; in addition, New Company will make annual payments in cash to the indenture trustee for the sinking fund, in an amount equal to 20% of net income, as defined, in excess of $500,000. In any year in which New Company spends less than 10% of gross operating revenue for maintenance, it shall deposit the difference in a maintenance fund with the indenture trustee; if at any time during the two years following such a deposit, New Company shall spend more than 10% for maintenance, it will be authorized to withdraw the excess from the maintenance.

2. The new stock, to be issued in the amount of 1,076,096 shares will be fully paid and non-assessable common stock, without par value. Each share of new stock shall have one vote, and cumulative voting in the election of directors will be permitted. The new stock will have preemptive rights of subscription. As soon as practicable after the effective date of the plan, New Company will attempt to list the stock on a national securities exchange. Fractional shares will be issued in multiples of 1/10 share, as may be necessary, and will, in proportion to denomination, have the rights of full shares. Without the affirmative consent of at least two-thirds of the outstanding common stock, New Company shall not (a) authorize any additional stock having preference or priority over the new stock; (b) lease or otherwise convey all or substantially all of its property or assets; (c) consolidate with or merge into any other corporation; (d) incur indebtedness of any character other than debt incurred in the ordinary course of business, and maturing within one year, and other than purchase-money, conditional sale, equipment trust or similar obligations. Dividends may be paid on the new stock, as may be determined by the Board of Directors, out of earned surplus accruing subsequent to the effective date of the plan.

3. The Board of Directors of New Company will consist of nine members. The first Board will be selected by the Court and be comprised of five from those nominated by Philadelphia Company, one from those nominated by public unguaranteed bondholders, and three

from those nominated by public unguaranteed stockholders. Nominations for the first Board shall be made as the Court may prescribe. The first Board will hold office until the initial annual meeting of stockholders, and will select the first officers of New Company with the approval of the Court.

V. The procedure proposed in the Combined Plan is as follows:

1. As to the reorganization of Railways System: if this Commission approves the plan, it shall be submitted to the Reorganization Court for action in accordance with the applicable provisions of Chapter X of the Bankruptcy Act. The plan will also be submitted to the Pennsylvania Public Utility Commission for its approval. Upon approval by the Reorganization Court, the plan will be transmitted for acceptance or rejection to creditors and stockholders whose votes are required. If accepted in accordance with the requirements of Chapter X, the Court will be requested to confirm the plan. In the event that any class of creditors or stockholders does not accept the plan by the requisite percentage, the plan may nevertheless be confirmed and consummated with appropriate provisions made by amendment for the treatment of that class in accordance with applicable provisions of the Bankruptcy Act. Following confirmation, the plan will be consummated at the earliest practicable date.

2. As to the discharge of Philadelphia Company's guarantees affecting Railways System securities: if this Commission approves the plan, Philadelphia Company will request the Commission, pursuant to sections 11 (e) and 18 (f) of the act, to apply to the Federal District Court to enforce and carry out the terms and provisions of the plan.

Applicants further propose that the Commission combine and consolidate the hearings on the Combined Plan required to be held before it pursuant to section 11 (e) and 11 (f) of the act.

VI. The Commission being required by the provisions of section 11 (e) and 11 (f) of the act, before approving any plan thereunder, to find, after notice and opportunity for hearing, that such plan, as submitted or as modified, is necessary to effectuate the provisions of subsection (b) of section 11 of the act, and is fair and equitable to the persons affected by such plan; and the Commission deeming it appropriate in the public interest and the interest of investors and consumers that a hearing be held upon said Combined Plan to afford all interested persons an opportunity to be heard with respect thereto; and

It appearing to the Commission that proceedings upon the application of Philadelphia Company filed under section 11 (e) of the act are related to and contain common questions of law and fact with proceedings upon the joint application under section 11 (f) of the act; that the evidence to be taken in connection with either of the said proceedings should be considered to the extent material and relevant in the other of the said proceedings; and that consolidation of the two proceedings would be conductive to the orderly, prompt and economical disposition of the matters involved:

It is ordered, That the proceedings in File No. 54–183 be, and the same hereby are, consolidated for hearing with the proceedings in File No. 52–28.

It is further ordered, That a hearing shall be held in these consolidated proceedings under the applicable provisions of the act and the rules and regulations promulgated thereunder on the 7th day of September 1949, at 10:00 a. m., e. d. s. t., at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. On that day the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held.

It is further ordered, That any interested person desiring to be heard in connection with these proceedings or otherwise wishing to participate herein shall file with the Secretary of the Commission, on or before September 2, 1949, his request or application therefor as provided by Rule XVII of the Commission's rules of practice. Such request shall set forth the nature of the applicant's interest in the proceedings, his reasons for requesting to be heard or otherwise to participate, and shall also set forth applicant's position with respect to the matters herein set forth and with respect to the issues herein. Any such persons who wishes to raise additional issues not otherwise set forth herein, shall state in his application such additional issues so proposed to be raised.

It is further ordered, That Richard Townsend or any other hearing officer or hearing officers of the Commission designated by it for that purpose shall preside at the hearings in these consolidated proceedings. The hearing officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made an examination of the Combined Plan and that, on the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

1. Whether the Combined Plan, as submitted or as it may hereafter be modified, is necessary to effectuate the provisions of section 11 (b) of the act, and is fair and equitable to the persons affected thereby, and, if not, in what respects said Combined Plan, including any modifications thereof, should be required to be modified and amended;

2. Whether the treatment of the claims and interests of public security holders and other claimants in the Railways System, as among themselves and as compared with the treatment of Philadelphia Company and its subsidiaries, is fair and equitable;

3. Whether the securities of New Company to be issued under the Combined Plan will be reasonably adapted to the security structure and earning power of New Company and will otherwise meet applicable standards of the act;

4. Whether terms and conditions of the proposed securities of New Company, including the proposed mortgage indenture and applicable provisions of the proposed Charter and By-Laws of New Company, are appropriate and are not detrimental to the public interest or the interest of investors or consumers;

5. Whether the fees and expenses which may be proposed to be paid in connection with the proposed transactions, to the extent related to the proceedings pursuant to section 11 (e) of the act, are for necessary services and are reasonable in amount;

6. Whether the accounting entries in connection with the proposed transactions are appropriate and in accordance with sound accounting principles;

7. Generally, whether the Combined Plan and the transactions set forth therein are in all respects in the public interest and in the interest of investors and consumers, and consistent with all the applicable requirements of the act and the rules thereunder, and if not, what modifications should be required to be made therein and what terms and conditions should be imposed to satisfy the applicable statutory standards;

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, either in whole or in part, any of the issues or questions set forth herein or which may arise in these proceedings, and to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall give notice of said hearing by mailing a copy of this notice and order by registered mail to Elmer E. Bauer, Trustee of Pittsburgh Railways Company, Debtor, Philadelphia Company, the Pennsylvania Public Utility Commission, the City of Pittsburgh, Pa., and the County of Allegheny, Pa., and that further notice shall be given by general release of this Commission which shall be distributed to the press, and mailed to persons on the mailing list for releases under the act; and that further notice be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

It is further ordered, That Elmer E. Bauer, Trustee of Pittsburgh Railways Company, Debtor, and Philadelphia Company shall give notice of said hearing to all creditors and public security holders of Railways and of each of its subsidiaries and underliers, by mailing a copy of this notice and order and of the Combined Plan at least thirty days prior to the date set for hearing to each of the known creditors and public security holders of Railways and of each of its subsidiaries and underliers and to each of the known holders of Railways System securities affected by Philadelphia Company's guarantees (insofar as the identity of such persons is known or available to said Trustee and Philadelphia Company), at his or her last known address.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49–6231; Filed, July 29, 1949; 8:54 a. m.]